

WEBSITE TERMS & CONDITIONS WHAT PEOPLE MISS



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Questions while reviewing? Email hello@lexalia.au or book a 15-min chat

What Most Business Owners Miss About Website Terms & Conditions

Common Gaps That Leave Your Business Exposed

Time needed: 15-20 minutes

Your website probably has terms and conditions. Maybe your developer added them when they built the site, or you downloaded a template and customized it. Either way, you've got legal pages, so you're protected, right?

Not necessarily. Most business owners discover—often at the worst possible time—that their website T&Cs have significant gaps. Not because they deliberately cut corners, but because they didn't know what they didn't know.

These overlooked provisions and common mismatches create risk. This guide highlights what gets missed most often, so you can assess whether your current website legal documents actually protect your business operations.

WHEN TO USE THIS GUIDE

Best reviewed: before launching new website features, implementing e-commerce, or conducting annual legal reviews

Most useful for: business owners who created T&Cs from templates or haven't updated legal documents since website launch

OVERLOOKED CONSIDERATION 1

Third-Party Tools and Data Sharing Aren't Disclosed

Your website uses Google Analytics. Maybe Facebook Pixel for advertising. Email marketing platform integrations. CRM systems. Booking software. Payment gateways. Chat widgets. Scheduling tools. Each of these collects user data and shares it with third parties.

Most generic privacy policies say "we may share data with third-party service providers" without naming them. That's not adequate disclosure under privacy law. Users have the right to know which specific third parties receive their information and why.

This becomes particularly problematic when you're using tools that store data overseas or have their own data practices. If Google Analytics or your email platform stores user data in the United States, that should be disclosed. If your booking system shares data with payment processors, calendar integrations, or reminder services, users need to know.

The consequence: Inadequate disclosure of third-party data sharing creates privacy law compliance risk. If users complain or regulators investigate, "we didn't realize we had to list specific tools" isn't a defence.

The reality:

Proper privacy provisions list the actual tools you use (Google Analytics, Mailchimp, Stripe, Calendly, etc.) and explain what data each one receives. When you add new tools, you update your privacy policy to match.

OVERLOOKED CONSIDERATION 2

Website Functionality Evolved But Legal Documents Didn't

When your site launched, it was just informational—company background, services offered, contact details. Your T&Cs reflected that simple setup. Then over the next two years, you added a newsletter signup. Then a booking system. Then online payments. Then a client portal where users log in to access documents.

Your website now has four different functions that weren't there at launch. But your T&Cs still just address general use of an informational website. There's nothing about booking cancellations, payment processing, refund policies, user account security, or client portal access terms.

This happens gradually. Each addition seems small at the time. You're focused on the new functionality working properly, not on whether your legal documents cover it. Three years later, there's a significant mismatch between what your site does and what your T&Cs say about it.

The consequence: When disputes arise about cancellations, refunds, delivery, or access, you discover your T&Cs don't actually address those situations. Generic "use at your own risk" language doesn't help resolve specific transaction disagreements.

The reality:

Website T&Cs need updating whenever you add significant functionality. Payment processing, booking systems, user accounts, downloads, subscriptions—each creates new terms that should be documented before launch, not added reactively after problems emerge.

OVERLOOKED CONSIDERATION 4

Industry-Specific Requirements Aren't Addressed

Generic website T&C templates don't account for industry-specific requirements. If you're in healthcare, financial services, legal services, education, childcare, or other regulated industries, you have additional disclosure obligations and professional standards that standard templates don't address.

For example, if you're a health practitioner providing information on your website, you need clear disclaimers that website content isn't medical advice for specific individuals. If you're a financial adviser, you need disclaimers about general information versus personal financial advice. If you provide legal information, you need to clarify that website content doesn't create solicitor-client relationships.

Even non-regulated industries have specific considerations. E-commerce businesses need Australian Consumer Law compliance. Subscription services need clear cancellation terms. Businesses selling digital products need usage rights and licensing provisions. Platforms with user-generated content need moderation and liability provisions.

The consequence: Missing industry-specific provisions creates compliance gaps and professional liability exposure. Saying "I used a standard template" doesn't help when your industry has specific disclosure or professional conduct requirements.

*The reality:
Your website T&Cs should reflect your specific industry context, professional obligations, and regulatory requirements—not just generic website operation provisions. Templates provide starting points, not complete solutions.*

OVERLOOKED CONSIDERATION 5

Governing Law and Dispute Resolution Are Vague or Missing

Many template T&Cs either don't specify which jurisdiction's law governs the agreement, or they specify the wrong jurisdiction because the template came from another country. If your template says "governed by the laws of California" but you're operating an Australian business, that's problematic.

Even templates that mention "local jurisdiction" often don't clarify what that means. Which state or territory? Which courts have jurisdiction if disputes arise? What dispute resolution process applies before litigation? These details matter when actual conflicts emerge.

For Australian businesses, your T&Cs should typically specify that NSW law governs (or your relevant state), identify which courts have jurisdiction, and outline any dispute resolution steps you prefer—whether that's direct negotiation, mediation, or arbitration before court proceedings. For consumer-facing businesses, you need to ensure these provisions comply with Australian Consumer Law, which limits your ability to contract out of certain protections.

The consequence: Without clear governing law provisions, disputes about jurisdiction and applicable law create additional complexity and cost. Vague or inappropriate jurisdiction clauses (especially references to foreign law) can undermine the enforceability of your entire agreement.

The reality:

Clear jurisdiction and governing law provisions prevent uncertainty about which legal system applies. For NSW businesses, this typically means specifying NSW law governs and NSW courts have jurisdiction, while complying with mandatory Australian Consumer Law protections where applicable.

IMPORTANT NOTE

These common oversights highlight why generic templates often fall short. Identifying gaps is the first step—but addressing them properly requires understanding your specific business operations, industry requirements, and how different provisions interact. Professional guidance ensures you're not just filling gaps, but creating comprehensive protection that actually works for your business.

READY TO FIX THE GAPS?

Next Steps: From Awareness to Protection

If you've recognized several of these oversights in your current website T&Cs, you're not alone. Most business owners discover these gaps only when they look critically at what their legal documents actually cover—or when problems arise that their documents don't address.

I work with business owners to create website terms and conditions that match their actual operations, industry requirements, and business model. We'll work through what your site does, what gaps exist in your current protection, and what provisions you actually need. Then we'll get your legal documents properly sorted.

Ready to discuss your website legal requirements with expert guidance? Contact Jackie Atchison at LexAlia Property & Commercial Law to explore how your specific business can be properly protected.

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