

periodically check or re-check details, asking clients whether there have been any changes and requiring them to confirm the particulars are up-to-date and correct. To avoid confusion, you may find it helpful to include on particulars the date on which they were compiled or revised.

- If you discover at any point during the marketing of a property that information is incorrect, act promptly to correct it.

5.29 You are responsible for any information that you pass on to others (such as sub agents or internet property portals) to publish.⁴⁷ You should therefore take reasonable steps to ensure that they present the information accurately. For example, if you use internet portals or intermediaries to display property particulars or advertisements, check what flags they automatically raise on a property (for example 'new instruction') when you upload to their site and take all reasonable precautions to correct the information if it is inaccurate.

5.30 If you are auctioning a property, you may have a defence to prosecution for any misleading acts or omissions in the catalogue listing for the property, where you receive the catalogue information in the ordinary course of your business (that is, it is drafted by the seller's solicitor, not by you). You will also need to show that you do not know and have no reason to suspect that publication would amount to an offence.⁴⁸

⁴⁷ Where the sub agent or portal is relying entirely on what you have told them and is simply reproducing advertising material, they themselves may have a publisher's defence (see 5.23). If the information you pass to them is accurate, but they alter the presentation of the information to make it misleading, or if they become aware that information is misleading and do not correct it (for example where you ask them to correct it), then the responsibility for the breach might fall on them.

⁴⁸ The due diligence defence may also be available to an auctioneer in relation to any prosecution for misleading acts or omissions regarding the auction itself, depending on the circumstances and whether the auctioneer is relying on information from, for example, the seller's solicitor. See sections 5.5 to 5.10 above.