

How we can help with

Business Sales

A seller's key objectives are to **maximise value** and **minimise risk**, and our aim as legal advisers is to help the seller achieve these objectives by managing the process effectively.

Maximising value – Planning and organisation is everything

Taking time to consider where the value in the business lies, and making sure that these areas are in order, before the sale process begins will limit the buyer's scope for negotiating a price reduction and / or including a long list of indemnities in the sale and purchase agreement.

In any sale of a business the prospective buyer and its lawyers will carry out a thorough investigation of the business before finally deciding to proceed with the deal. If the seller cannot supply the information requested, or the information is not clear and up-to-date, the buyer may seek to reduce the price, or include indemnities in the contract which have the effect of a retrospective price reduction.

Therefore, the first step in selling a business, even before finding a buyer, is to carry out a healthcheck with your legal adviser: Are employment contracts and policies up to date? Where are the computer software licence details? Are contracts with suppliers and customers ready to be picked over with a fine-toothed comb?

Minimising risk – Why worry about Warranties?

- ∴ **Warranties:** a series of statements in the sale and purchase agreement (SPA) made by the seller relating to all aspects of the seller's business. The buyer has a potential right to claim against the seller for damages after completion of the deal if the Warranties turn out to be untrue.

Once a price is agreed and the buyer has investigated the business, the buyer's lawyers will prepare a draft SPA. This contains the central terms of the deal i.e. the price and payment terms, completion mechanics and Warranties.

In order to minimise the risk of a post-completion claim under the Warranties, the seller's lawyer will prepare a disclosure letter containing details of issues which could potentially breach a Warranty. Provided the issue is properly disclosed in the letter, the buyer will not be able to claim against the seller in respect of that issue.

Key benefits of a well managed sale:

- Having carried out a healthcheck the seller will be fully prepared for the buyer's questions thus avoiding a price reduction and maximising the value of the business.
- The risk of a future warranty claim will be minimised by a thorough disclosure letter.
- Legal costs will have been minimised by the effective management of the sale process.

Like to find out more?

To discuss the sale of your business and to arrange a Free Legal Healthcheck please contact one of our Solicitors in the Corporate Services Team on 01635 521212 or by email:

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