



Slee Blackwell Solicitors

The Essential Guide
to
Selling a Business

www.sleeblackwell.co.uk

CHECKLIST

Licensing/Permits

- Premises Licence
- Performing Rights Society
- Wedding
- Gaming
- Other

Planning

- Permissions
- Building Regulations Approval
- Completion Certificates
- Signage
- Listed Buildings Consent

Employees

- Written contracts
- Current Hours and Pay
- D.O.B
- Start Date
- PAYE and NIC

Agreements

- Hire Purchase
- Leasing
- Rental
- Service/Maintenance Contracts

Certificates

- Fire Risk Assessment
- Electrical
- Radon
- Gas
- EPC
- Asbestos Report
- Disability certificate
- Hot water and heating system

Financial

- VAT returns
- Accounts
- Accountants name and address
- Water account
- Non-Domestic rates
- Domestic Rates

Guarantees

- Double Glazing
- Equipment
- Woodworm
- Damp
- Others

Advertising

- Guides
- Directories
- Websites and domain names
- Other

Environmental Health

- Last Report
- Food Hygiene Certificate

Leasehold Properties

- Lease
- Name and address of Landlord
- Service Charge Accounts
- Buildings Insurance Policy.

Services

Details of utility providers

- Discharge consent/water abstraction if applicable

Selling your business is a big deal to us.

In the present market climate and financial turmoil we believe that it is essential and vitally important for Sellers to collate the necessary information set out in the checklist as soon as the property is put on the market.

This booklet provides generic advice on the issues that you are likely to come across when seeking to sell your business.

Needless to say every business is different and you will need to obtain specific legal advice on your transaction from a Solicitor.

The aim of this booklet is to provide an oversight of the conveyancing process to help you understand what is being asked of you and why as the Seller that information is important.

This will cut down on delays in dealing with the legal issues and the preparation of the contract papers required by the Buyer's Solicitors.

Delays in dealing with the appropriate information can cause the transaction to become unnecessarily protracted and the longer the transaction takes to legally exchange the higher the risk the Buyer may withdraw.

Slee Blackwell commercial team understand the importance of acting swiftly and efficiently in dealing with the legal aspects.

Nick Arthur



Position: Partner
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CONTRACT ISSUES

Sale Price

The sale price agreed will need to be apportioned between the goodwill of the business, the fixtures and fittings (inventory) used in the business and the bricks and mortar. Your accountant may advise that there is also a split between any residential part of the property from the business side. These are known as apportionments.

The apportionments will have a tax implication on both the Seller and the Buyer so it is good practice for both parties to take their accountants advice at an early stage.

Stock

Save for exceptional circumstances the contract will normally state that the stock will be purchased on completion. It is best practice for the parties to agree on an expert valuer and get him to value the stock on the day of completion. This would avoid any potential conflict between the parties as to the value of the stock being sold. If the parties carry out the stock take themselves they may encounter genuine valuation issues which can be difficult to resolve.

VAT

VAT will always be payable on the Stock but can be avoided on the Business itself provided the sale is a Transfer of a Going Concern (TOGC). If you are unsure whether this applies you should speak with a solicitor as soon as possible.

Inventory

You or the estate agents will need to prepare an inventory of the equipment, fixtures and fittings that are being left for the Buyer.

Goodwill

You will be asked to agree not to set up a similar business within a specified radius of the property being transferred for a certain amount of time so that you do not compete with the Buyer having sold the business.

Warranties

These are terms in the contract where the Seller promises the information provided to the Buyer is accurate. If it is not then the Buyer could have a claim against the Seller for a breach of contract.

Prepayments/Deposits

On completion you may have paid for advertising costs or other things in advance and the sale contract will need to require the Buyer to refund these to you. If you have received any deposits for bookings taking place after you have sold you will need to pay these over to the Buyer.

Maintenance Contracts/ Supply Contracts/ Hire Purchase Agreements

It is important that these contracts are taken over by the Buyer on completion if they are not being cancelled by the Seller to avoid any future liability. The Buyer will want to know what contracts they will be taking over and which will be terminated when the business is sold to them. Some contracts may not be transferable and you should check these contracts with a Solicitor as soon as possible otherwise the Buyer may have a claim against the Seller for breach of contract.

Emma Reed



Position: Partner

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Employees

Under Employment legislation the employees of a business automatically transfer to the Buyer along with the business. The Buyer will have to continue the employment of those employees on the same terms that they enjoyed with the Seller. It is important for the Buyer to receive details of the employees as soon as possible, including their employment contracts, hours of work, length of service, rates of pay, age, PAYE details, holiday pay/entitlement and National Insurance details.

Employment issues are a very intricate area when it comes to taking over a business which necessitates the Buyer and the Seller obtaining specialist advice.

Licensing

If the premises has a Premises Licence this will need to be transferred to the Buyer on completion. It is essential that you do not hand over the original Premises Licence or provide your consent to transfer before the relevant time.

Gaming Machines

If there are AWP machines (Amusement Machines with Prizes) on the Premises the Buyer would need to notify the Licensing Authority that you have taken over the premises. There are standard forms available on most Licensing Authority's websites.

Emma Napper



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LEGISLATION

Control Of Asbestos At Work Regulations

Owners and occupiers of a commercial building, including a public house or hotel, will need to show they have complied with the Control of Asbestos at Work Regulations.

Energy Performance Certificates (EPC's)

From 4th January 2009 sellers of all commercial premises will need to have an EPC for all of their building or parts of their building when they are being sold or rented. The seller will need to employ a specialist surveyor to provide such a certificate.

NICEIC Certificates and PAT Testing

Many mortgage lenders, insurers and surveyors often now require confirmation that an electrical system is safe. An NICEIC certificate is the most widely recognised system of confirming such safety.

Portable electrical equipment must be safe and in conformity with the principle elements of the safety objectives for electrical equipment which is set out in the Electrical Equipment (Safety) Regulations 1994.

The level of testing and inspections required is dependent on the risk of the appliance becoming faulty. There are no absolute rules about the frequency of testing but it should be carried out on a regular basis.



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The proof... is in the dealing

Recent deals done by our Commercial Team include...

Pubs

The Lamb Inn, Barnstaple
Rockford Inn, Rockford
Hoops Inn, Bideford
Fountain Inn, Barnstaple
The Foundry Bar, Hayle
Fox and Goose, Parracombe
The Thatched Inn,, Ilfracombe
Chambers Wine Bar, Barnstaple
Colliford Tavern, Liskeard
Steven Stars, Pewsey
Hunters lodge, Cornworthy
New Inn, Coleford
The Royal Oak, Downham Market
Hele Bay Public House, Ilfracombe
Chichester Arms, Bishops Tawton
The Cricketers, Blandford Forum

Other Business

Fiasco's Sandwich Bar, Barnstaple
Woolacombe Fryer, Woolacombe
Oasis Service station, Braunton
Atlantic Highway Service Station, Bude
Mylor Stores, Falmouth
The Village Chippy, Woolacombe
Northam Chippy, Bideford
Everslyes Rest Home, Uttoxeter

Hotels

The Westcott Hotel, Falmouth
The Estam Hotel, Torquay
Bonnicott House Hotel, Torquay
Trevanian Hotel, West Looe
Caertref Hotel. Woolacombe
Trimstone Manor Hotel, Ilfracombe
The Patricia Hotel, Torquay
Hotel Fiesta Paignton

Restaurants

Lemon Grass, Braunton
Cross Tree Restaurant, Braunton
Beatons Restaurant, Perranporth
Boveys Restaurant, Simonsbath

Night Clubs

Collosus Nightclub, Ilfracombe
Glitterball, Barnstaple
Chinese Whispers, Ilfracombe

Leisure Parks

Ashlea Pools Country Park Shropshire
River Valley Country Park
Penzance

The information contained in this guide is for reference only and is not intended to provide legal advice. If you are selling a business you will need to obtain specific legal advice from a solicitor specialising in the commercial property sector. The information contained in this guide is correct as at October 2008.