

## Guide to selling a business

There are many factors to consider when selling a business and it isn't something that should be entered into lightly. Every business is different and your reasons for selling can be varied so getting the right professional advice is crucial to ensure you get the best outcome. For some, it can be a very emotional and stressful time, particularly if it's a business you put your life and sole into over many years. We're here to help ensure that you maximise the value of your business. By taking legal advice at the outset you can be clear of any implications that may arise during the negotiations.

Here are some of the important considerations when selling a business:

### 1 What are your sale objectives?

One of the first things any adviser will ask you is why you want to sell, as this can impact on the deal structure proposed. A trade sale to another business, typically in the same sector, is the most common exit route, although alternatives can include a management buy-out, passing the business to your family or floating your business. Some of the more common objectives include:

- Retiring/ill health, so looking for a cash payout at a target price, and/or by a set date
- To secure the future of the business and the employees
- To minimise your personal tax liabilities

You will need to have a commercial legal adviser on your side as well as a corporate finance adviser and an accountant to advise you on tax. If there are employees you will also need to have an employment law adviser too. You may also want to think about a personal wealth manager to ensure that any proceeds are invested in the appropriate way.

### 2 When is the best time to sell?

The biggest mistake business owners often make is selling too early, rather than taking the time to groom the business ready for a sale. We find that business owners often panic to sell when the market is in decline, rather than waiting it out, but we can advise you of such implications. By taking your time (often months), you can present your business in a very different way and therefore maximise the sale value. You need to be able to show prospective buyers that your business is under control with accurate management information. You should also look to improve planning, performance and profitability in all areas, make sure you have suitable contracts for employees and suppliers, resolve any outstanding disputes and tighten up your financing. We would advise that you:

- create a stable financial plan for the year, delaying any major purchases to help achieve this
- sell off any redundant equipment and property
- tighten up stock control, making provision for old stock as appropriate
- take pride in the appearance of premises; make sure they look well maintained and tidy

### 3 The first steps

Once you feel that your business is ready for sale, your legal adviser will draft a 'sales memorandum' which effectively highlights the key features of the business, including basic performance indicators such as turnover and profit. At this stage confidential information will not be disclosed. There are specialist commercial sales agencies that can help to market your business to prospective buyers and we can help you select one if necessary. Often the business name will be hidden until serious interest has been registered by a buyer. Once a serious buyer comes forward then they will be asked to sign a non disclosure agreement before any information is shared with them. You may want to consider telling key employees of your intentions at this stage before any on-site meetings/tours begin taking place.

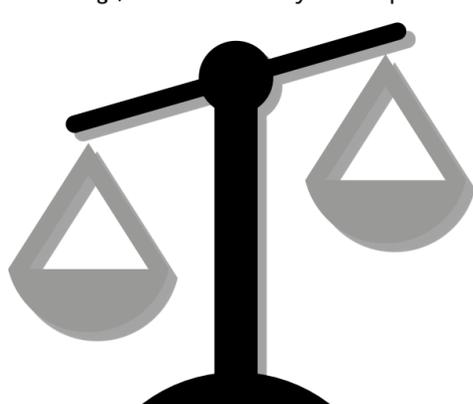


### 4 Weighing up your offers

There are different ways to fund the purchase and take over of a business and this may affect how you draw up a shortlist. You must consider how the buyer is proposing to pay for your business as some offers will be more attractive to you than others. Offers may include cash payments, guaranteed deferred cash payments, share swaps, or payments can often be linked to future business performance in the form of 'earn-outs'. It's best to discuss any offers with your advisers to ensure you pick the right option for you. You should also be prepared to negotiate with prospective buyers before asking for final offers.

Some other factors that may affect your decision might be how the buyers have any plans for the business, i.e. are they going to sell parts off? Will it become part of a wider group? Will there be any redundancies? Will you be able to retain some management control if you want to?

As a front runner emerges, your lawyer will draft up a 'Head of Terms Agreement' which will include the main points of the deal including, what the purchaser is offering to buy, how the price will be calculated and the agreed payment terms. At this stage, other interested buyers are kept in reserve while you try to finalise the deal.



### 5 Finalising a deal

Before committing to the deal, the purchaser will want to carry out detailed due diligence checks into every aspect of your business. You will be probably be contacted by the buyer's lawyers and accountants who will want to see your accounts, supplier contracts, employee contracts, property deeds and so on. You should be as transparent with them as possible and you'll often be required to give warranties that the information you have provided is true, and asked for indemnities to protect the purchaser from any specific risks. You may also be asked to enter into a no-competition contract agreement so that you cannot set up a competing business.

One of the legal requirements of selling a business is to decide what happens to your employees when you sell your business. In the case of a share sale, your employees will remain with the business and the buyer will inherit the control over your employees. They will be required to give warranties that the information you have provided is true, and asked for indemnities to protect the purchaser from any specific risks. You may also be asked to enter into a no-competition contract agreement so that you cannot set up a competing business. We have experienced employment law solicitors who can guide you through this. In a situation where the buyer may state that they do not want to take one, all or some of your employees that may leave you to terminate their employment. In such a case, you must tread very carefully as you may be left with liability for claims arising from the dismissals.

Our employment law specialists can help guide you through the process, discussing possible options as well as highlighting the potential risks.

## In Summary

Selling your business can take months but if you invest the time wisely and have a team of suitable advisers on your side then you should get the right outcome. The commercial team here at Banner Jones have had many years experience in helping business owners exit their business.

Don't hesitate to get in touch with one of our expert employment law solicitors for specialist advice:  
Drop us an email on [info@bannerjones.co.uk](mailto:info@bannerjones.co.uk), or call us on 0330 017 6309.

Phone: 0330 017 6309 Web: [www.bannerjones.co.uk](http://www.bannerjones.co.uk)

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