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Selling a business? Is it legally compliant?

There is a myriad of rules and regulations that your business is legally obliged to comply with, ranging from documenting the cleaning products used in your toilets to how you treat and deal with your employees. Inevitably, when buyers look at your business they will want to satisfy themselves that everything is in order before committing themselves to the purchase.

The timing of a business sale is often crucial and you will not want it held up trying to backfill compliance documentation at the last minute. It is therefore vital that you forward plan to make sure everything is up to date before going to market.

For example, the following matters relating to business premises can take time to arrange, particularly if issues do come to light which must then be put right:

- with limited exceptions, all commercial buildings must now have an energy performance certificate (EPC) before being advertised for sale. An EPC contains information about the energy efficiency of a building. You must obtain EPCs and the related display energy certificates and provide them to potential buyers free of charge. To prepare his report, the energy assessor appointed will need up-to-date plans of the building and other information regarding glazing, heating and ventilation. Obtaining this information can, of course, take time.
- the Control of Asbestos at Work Regulations 2002 have been in place for some time. There are criminal penalties for failure to obtain reports as required by law and for not having in place an appropriate plan for dealing with any asbestos found to be present in the building. Prosecutions have been undertaken by the Health & Safety Executive. The regulations apply in any event, whether or not a sale is proposed but, in our experience, many small businesses are still unaware of them and can be caught out when a buyer asks for a copy of the asbestos report. Clearly, having one in place prior to sale is likely to avoid last minute delays.

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- all businesses must have undertaken a fire risk assessment and have in place a plan for managing those risks and a means of escape. The rules came into force in 2006 and are designed to improve safety in the workplace. Once again, you can be prosecuted for not having prepared an assessment and your buyer will also ask to see the documentation.

These are just some issues which can arise when selling your business premises. Dealing with them now not only ensures compliance with the law but means that you will have the relevant documentation in place at the time of sale, thus avoiding delays and the possibility of further negotiations.

If you are thinking of selling your business, it is never too soon to take advice on steps required to achieve a successful sale. Such planning is even more important in an uncertain economic climate and can make all the difference between realising your asset and missing a golden opportunity!

Please contact Steven, Tom or Philip who will be happy to provide further advice or visit www.gardandco.com.

See also our article: [Preparing your business for sale](#).

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