

Essential steps when buying or selling a pharmacy



You have decided to sell your pharmacy business or you have found a pharmacy you want to buy. You have agreed a price and appointed lawyers and accountants to help you with the process. What happens next?

It is always daunting handing over the reins, especially when it is your first time buying a business, or perhaps you are selling a business you have created with decades of hard work. This guide is to help you understand what goes on once lawyers become involved, what will be expected of you and how things should run so you know what comes next every step of the way.

1) Initial documents

The seller will want to be sure that the buyer is committed to purchasing the pharmacy on the agreed terms, and so will ask for a deposit to be paid by the buyer and held by the seller's solicitors. The payment of the deposit will be made once a Deposit Agreement is signed by both parties. This will govern the circumstances in which the deposit will be returned to the buyer, for example if something arises out of the information provided about the pharmacy that cannot be resolved and this means the buyer cannot proceed.

Before information about the pharmacy is passed between the parties the seller will want to ensure that the buyer is obliged to keep that information confidential and not share it with anyone outside of his professional advisory team. The seller's solicitors will therefore issue a Confidentiality Agreement which the buyer will need to sign.



2) Due diligence

The buyer's solicitor will have a standard form questionnaire that lists numerous enquiries about the business, the accounts, the employees and operational matters such as insurance and the computer system. This will be issued to the seller's solicitor, and the seller will then need to go through this and provide responses to the enquiries, together with any associated documents, such as copies of contracts with suppliers and employment contracts. This can be a lengthy and tiresome process, and we always spend time with our seller clients going through the questionnaire to ensure the seller knows what is expected of them. Once the buyer has seen the seller's replies they may raise additional enquiries if the replies are unclear or incomplete, so it's always best to provide as much information as possible at the outset to ensure additional enquiries are kept to a minimum. The seller has an obligation to update the replies or notify the buyer if anything happens at the pharmacy or in the business during the course of the transaction, or if any of the replies change.

3) Sale and purchase agreement and disclosure letter

The buyer's solicitor will draft the Sale and Purchase Agreement ("Agreement") and send this to the seller's solicitor for their review. The seller's solicitor will make any necessary amendments in the interests of the seller. There will always be amendments and the Agreement will go back and forth between the seller's solicitor and the buyer's solicitor until both parties are happy that their clients' interests are protected. This process will require the involvement of the seller and the buyer, and also their accountants.

The Agreement will contain a suite of warranties, which are statements the seller makes about the business. The seller needs to review these warranties to make sure that they are all true and accurate, and if not they need to advise their solicitor of the facts and circumstances that make those warranties untrue or inaccurate. Those facts and circumstances are called 'disclosures', and are then noted in a Disclosure Letter, which has the effect of limiting the seller's liability. If the buyer suffers loss after completion as a result of a warranty being untrue, but the seller has made a disclosure against that warranty, the buyer will not be able to claim against the seller in respect of the loss they have suffered. This is a significant part of the process, especially for the seller, and we always ensure our seller clients have had the opportunity to discuss and go through the warranties with us so that every disclosure that needs to be made is included in the Disclosure Letter. Similarly, we explain any disclosures made by the seller to our buyer clients, so they are fully aware of what they are taking on.

4) Property

There are different ways in which the buyer may acquire the property the pharmacy business operates from. If the seller has a lease of the property, this may be transferred to the buyer. Alternatively, the buyer may require a new lease, usually because of their funder's requirements. The buyer may be acquiring the freehold of the building where the pharmacy premises are located. The provisions in respect of the property will be dealt with in the Agreement. Where we are dealing with a lease we will usually need the landlord to consent to the transfer of the lease, or to grant a new lease. This will run alongside the main transaction.

5) Funders

Where acting for buyers, we will need to liaise with their funder and their funder's solicitors in respect of any bank funding being used to acquire the business. They will raise their own enquiries, which largely mirror the enquiries we will have raised, but this can sometimes cause delays. It is therefore really important that funding arrangements are in place as early on in the transaction as possible. Sellers may also have bank matters to deal with, for example releasing the assets being sold from existing security or redeeming outstanding borrowing on completion.



6) Ancillary documents

There will be numerous other documents that are ancillary to the Agreement that the parties will need to sign, for example board minutes authorising entry into the Agreement. These will be prepared and agreed between the solicitors.

7) NHS contract

Where assets of a pharmacy business are being purchased the buyer will need to submit an application to NHS England for the transfer of the NHS contract into the buyer's name. The seller will need to help with this, and the parties should liaise to ensure this is submitted at the outset of the transaction. If the buyer is a first-time buyer, they will also need to submit a Fitness to Practice application.

8) Completion

Where assets are being sold completion will be conditional on the consent to the transfer of the NHS contract being provided by NHS England, and the appeal period in respect of the consent expiring, which is 30 days from the date of the consent. Completion will also be conditional on any property matters being resolved, especially where the transaction involves a third-party landlord. In practice this means that the Agreement will be exchanged as soon as all parties are ready, and we will then wait to receive the consent and finalise the property matters, and a date can then be set for completion. Where shares are being sold and purchased, usually the Agreement is entered into on the date of completion, which is agreed between the parties once all outstanding matters are close to being resolved. It helps to complete a share purchase on the first or last day of the month for accounting purposes, but this is not essential.

9) Post completion

After we have completed there will be various post completion matters that we will deal with for you. These include submitting an SDLT return in respect of the property purchase, submitting an application to the Land Registry in respect of the registration of the property transfer, paying any stamp duty payable on a share purchase, and preparing a bible of transaction documents for safe-keeping.

Trusted advisors

We have a loyal base of repeat clients who come back time and again, year on year.

We strongly believe that our understanding of the sector allows us to foresee future problems for our clients on acquisitions and disposals and our experience allows us to deal with those proactively to bring the transactions to a conclusion. If you want to discuss anything in this guide in more detail or need help buying, growing or selling your pharmacy speak to our specialist healthcare team.



[Amrit Virdee](#)

Associate



[Oliver Parsons](#)

Associate



[Chehraz Fox](#)

Partner



[Holly Goacher](#)

Partner



[James Clewlow](#)

Partner and Head of Horsham