

Commercial Property Factsheets

Selling commercial freehold property

Preparing to sell

There are several issues to consider before selling your premises.

- You can structure the deal as the sale of an asset, or include the property in the transfer of a business as a going concern. See our separate factsheet on Selling a business.
- Tax planning is important: for example, to confirm whether capital gains tax is payable (and whether the sale qualifies for business asset taper relief). Depending on the circumstances, you may need to elect to charge VAT to avoid making an exempt sale and so becoming liable to repay some of the input VAT you have claimed in the past.
- You may be able to add value: for example, by obtaining planning permission to extend the premises or to change their permitted use. Ensuring that the premises are in generally good order helps improve their marketability.
- A sale of premises normally includes fixtures and fittings (the exact inventory should be included in the eventual sale documentation). You need to decide how to deal with other contents such as equipment (particularly items covered by hire purchase or lease agreements) and stock (which may be included in the sale).
- Owners selling a commercial property (must provide an Energy Performance Certificate (EPC), giving a rating of the energy efficiency and carbon emissions of the building. EPCs are produced using standard methods, with standard assumptions about energy usage, so that the energy efficiency of one building can easily be compared with another similar building. The aim is to help buyers consider energy efficiency and fuel costs as part of their buying decision.

Marketing the property

The right marketing helps attract buyers and increase the likely sale price.

- Key marketing details include a description of the premises (including location, size and layout), what use is permitted under their planning permission (eg retail or storage and distribution), and an indicative asking price.
- Where appropriate, you should also include information on the business trading from the premises (eg turnover, gross profit). This may be an important component of the value (eg for a successful hotel or bar).
- You can use a chartered surveyor, a commercial estate agent or a business transfer agent to market your property. Reputable agents tend to be members of a trade association with a code of practice that helps protect you.
- An agent typically asks you to make an upfront payment to cover marketing costs, and to pay a commission based on the eventual selling price. Both elements may be negotiable. You should have written confirmation of your agreement with the agent, including details of the commission arrangements.
- A sole agency agreement means that the agent is entitled to commission even if you sell through a different agent. If you agree sole selling rights, you commit to paying the agent regardless of how you sell the property. You should aim to negotiate a time limit to any exclusive arrangement like these.
- Sale by auction is an alternative to marketing through an agent. Auctions tend to be used for properties with potential (for development or creating a business), rather than those that are successfully trading. You should ensure that you are clear on the auctioneer's terms and conditions before agreeing to sell your property in this way.

Making the sale

- Potential purchasers will often visit the premises several times. You are not generally required to point out any problems, but could face a later claim if you give a misleading answer to a direct question.
- An interested purchaser will normally submit a conditional offer, subject to details such as a satisfactory survey.
- Everything remains negotiable until you exchange contracts, and either side can withdraw from the agreement. You can

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continue to market the property to other purchasers, though you may agree to allow one purchaser exclusive negotiating rights for a limited period (eg provided they agree to cover any legal costs you have run up if they decide not to proceed).

- Once contracts are exchanged, both sides are committed to the deal; either side can face substantial claims if they fail to complete. It is normal practice to require a deposit (eg 10 per cent) at exchange.
- You must provide vacant possession on completion (unless otherwise agreed).
- You could still have potential future liabilities after selling the property: for example, if you contaminated the land or made unsafe alterations to the premises. You should ensure that your sale contract includes suitable clauses aiming to transfer risk to the purchaser.