



Selling your care home

As financial pressures mount on the care home industry, there are a number of actions you may be taking to keep costs down. Operators who own a group of care homes may choose to consolidate their portfolio and put homes on the market, or smaller operators may choose to sell and invest in another sector.

Making the decision to sell a care home is not an easy one, but once the process is underway, there are several actions that you can take to increase the likelihood of a successful, smooth and speedy sale.

Share or Asset sale

The first decision is whether you want simply to sell the care home to a new owner (asset sale) or sell your company and the care home property (share sale), although the property may already be owned by the company, depending on how the business has been structured. For both the buyer and the seller, there are advantages and disadvantages to both approaches, and bear in mind that how the transaction is structured may not solely be down to you – the buyer may have strong views as to whether it wants to acquire the shares or the underlying assets.

If you choose a share sale, the buyer will purchase your company, including all its assets and liabilities, and the property. If you choose an asset sale, the buyer will take over the running of the care home under their own existing (or newly formed) company and will own the property, but the majority of the liabilities (with the exception of liabilities relating to employees) will be left behind with the seller.

The most common type of sale is an asset sale. This involves a less comprehensive due diligence process than a share sale, but requires an employee information and consultation process to be undertaken.

Be prepared

Your buyer will be looking for reassurance that he/she is buying a profitable, well-run business which is fully compliant with regulatory and business requirements.

At the very earliest stage, investing time in collating and preparing the documents that your buyer will expect to see will be time well spent and will help to secure the value of a successfully run care home. Experienced care home solicitors, such as the A&R Care team at Adams & Remers, will provide you with a list of documents and information that you should collect. Be prepared with full accounts for the last three years; management accounts; CQC correspondence; insurance certificates, policies and claims history; Health and Safety paperwork; staff contracts and policies; resident contracts; planning permissions; copies of contracts for leased items and maintenance agreements. If you can, it is helpful to produce an inventory to identify the items that will be included in the sale.

You will receive enquiry documents from the buyer's solicitor which will take time to complete. Awareness and anticipation of a buyer's requests mean that enquiries can be dealt with quickly and will not hold up the process further down the line. A flexible and helpful approach will ensure a buyer remains committed to the purchase and does not lose confidence. Having the information to hand will help you in completing these enquiries from the buyer's side.

Are there any ongoing staff disputes?

Ensure you have documentation to support the dispute and an action plan for resolving the matter. If the dispute is significant, try to resolve it before marketing your care home.

Have you been graded 'Requires Improvement' by the CQC?

What steps have you taken to rectify any identified problems? Are you due to be revisited by the CQC? Do you have copies of all correspondence?

Are your equipment inspections up to date?

Do you need to renew your inspections of patient equipment, electrical installation, gas appliances, PAT testing, and so on?

Do you have an asbestos report?

Your buyer's lender will require an asbestos report, so if you do not have one you will need to instruct one as soon as possible.

Do you have Planning Permission and Building Regulations for any work you have undertaken?

It would be helpful to have copies of these available.

Do you have any problems within the property itself, for example, dampness, subsidence, disrepair?

Arrange to make repairs, or obtain quotes which can be passed onto the buyer for consideration

Consult your staff

In an asset sale, employees will be transferred to the new buyer under legislation known as TUPE (The Transfer of Undertakings (Protection of Employment) Regulations 2006). There are clear rules governing the way in which you should consult with affected employees regarding TUPE and an experienced Employment Solicitor will be able to guide you through this process. Our next newsletter will feature an article on the information and consultation requirements of the TUPE legislation with regards to care homes.

Contacting Adams & Remers

If you are thinking about buying or selling a care home, our team at Adams & Remers will be pleased to discuss your sale or purchase and support you through the process. Please call us on 01273 480616.

This article is not intended to be a full summary of the law and advice should be sought on all issues.

Contact



Joanna Clark

Partner

Tel **+44(0)20 7024 3226**

Email

joanna.clark@adamsandremers.com

Adams & Remers LLP

Lewes

Trinity House, School Hill,
Lewes, Sussex BN7 2NN

Tel +44 (0)1273 480616

Fax +44 (0)1273 480618

DX 3100 Lewes1

Email **lewes@adamsandremers.com**

London

Commonwealth House,
55-58 Pall Mall, London SW1Y 5JH

Tel +44 (0)20 7024 3600

Fax +44 (0)20 7839 5244

DX 140545 Piccadilly 5

Email **london@adamsandremers.com**