

Case Study

Sector: Care Homes

Jurisdiction: UK

Deal value: £15-20m

Issues: PE Buyer requiring covenant strength
Identified National Minimum Wage risks

Background:

A private equity fund was buying a portfolio of residential care homes located in various locations across the UK. Both the vendor due diligence and buy side legal and financial due diligence identified a concern involving National Minimum Wage legislation and a quantum in excess of £1m. Acquiring from a private equity seller, the buyer required a strong financial covenant standing behind warranties on this regulated business.

Issue:

The buyer was concerned that the target business may have material liability in connection with historic 'sleep-in' arrangements for employees. The seller was reluctant to accept any price reduction and the buying fund was not prepared to accept a risk which could impact future returns to investors. The selling fund was looking for a clean exit and the buyer required significant protection on its acquisition. The seller proposed insurance as a solution to facilitate the transaction and remove the specific risks identified around historic employment.

Solution:

An insurance policy was issued for the benefit of the buyer with a limit of £10 million which gave it a broad range of protection under the general and tax warranties/indemnities. Insurance also provided a £1 million of specific cover for the identified liabilities around historic 'sleep-in' arrangements; this was done via an agreed form indemnity insured back-to-back by the comprehensive insurance policy.

