

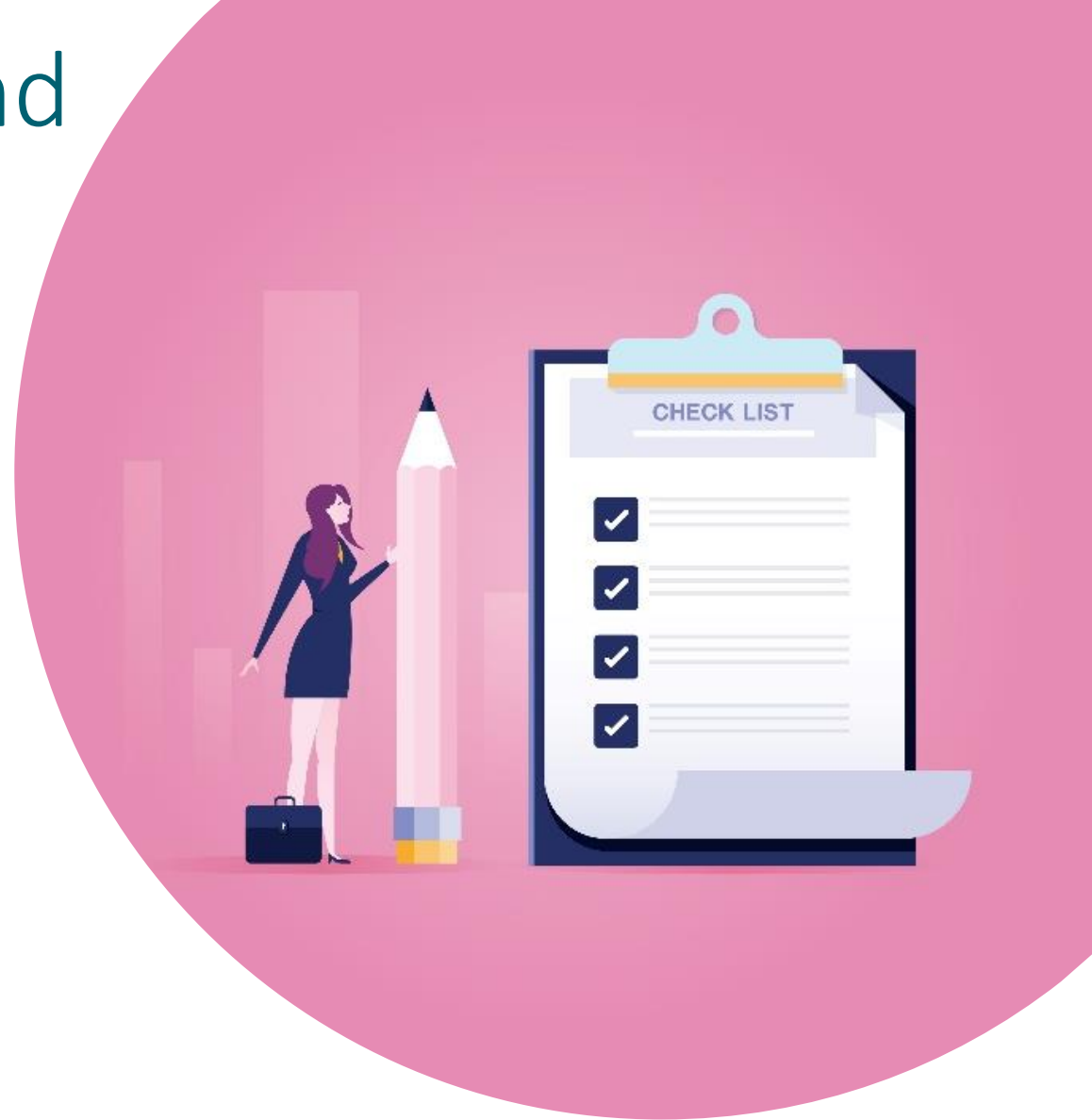
Warranties and indemnities

hcr

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rickerbys solicitors

Why have warranties and indemnities?

- Buyer beware
- Information gathering / due diligence
- Price negotiation
- Risk allocation



Warranties

- Contractual statements of truth
- Protect against unknown liabilities
- Broad in scope covering all areas of business / company
- Snapshot of business on given date (exchange and / or completion)
- Can be disclosed against to give seller protection against claim
- Contractual basis of damages



Indemnity

- Contractual promise to compensate another party for a particular specific loss or liability
- No need to show a breach of contract
 - ✓ £ for £ recovery
 - ✓ No requirement to mitigate loss
 - ✓ Disclosure not relevant to indemnity claim
 - ✓ Limitations don't usually apply
 - ✓ Limitation period runs from date the loss is suffered rather than from when the event which causes the loss occurs



Potential Issues

- Warranties / limitations (de minimis; aggregate; cap)
- Seller's knowledge
- Usually broad in scope and may be difficult to prove loss
- Time period runs from date of agreement (e.g. exchange or completion)
- Additional period to “issue and serve”
- Cost of litigation
- Interplay with notices clause / timing implications
- W+I policy?



Any questions?





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