



LEGAL SERVICES FOR SELLERS AND PURCHASERS OF DENTAL PRACTICES

A MULTI-DISCIPLINARY APPROACH

Wellers Law Group is highly regarded for its skill and knowledge in the company and commercial law sector, with a particular specialism in the healthcare sector. Our London City office offers high quality legal advice to business owners seeking to sell or purchase healthcare businesses including dental practices, pharmacies and care homes.

As a modern, multi-disciplinary legal practice, our approach means that you can be sure all aspects of your sale or purchase, including the structuring, property aspects, employment and related personal legal matters are covered under one roof by experts in their fields.

Laws and regulations in the healthcare sector are constantly changing and when buying a business it is important to ensure you can rely on an expert to guide you through the key stages and decisions.

THE ACQUISITION

For purchasers of dental practices (both private and mixed) Wellers provides the following services:

- Planning and management of all aspects of the legal process, from initial contact with the selling agent to completion and release of the keys
- Advising on the most suitable structure for acquiring the business, whether as an “asset purchase” or as a “share purchase”
- A thorough and structured approach to the legal due diligence process
- Liaising with the Care Quality Commission, and where an NHS contract is involved, liaising with NHS England
- Drafting, negotiating and finalising the sale and purchase documentation
- Advising on the legal obligations in connection with the employees and associates working at the practice
- Dealing with the property aspects, whether taking over the lease of the practice or acquiring the freehold

ADVISING YOU THROUGH THE WHOLE PROCESS

STAGE 1

HEADS OF TERMS / SALE PARTICULARS

With the assistance of the agent we will guide you through the Heads of Terms to ensure that the document correctly reflects the terms of the sale and purchase. The following points will be covered:

- Whether the sale is an asset sale or share sale
- The purchase price and deposit
- Timeframes and deadlines for completion
- Exclusivity periods for dealing with the seller
- Confidentiality obligations

STAGE 2

THE DUE DILIGENCE PROCESS

- We will carry out a legal 'due diligence' on behalf of the buyer. This is a fact finding exercise about the practice, accounts, employees, assets and any risks associated with the practice
- The seller will be required to collate the information and documentation requested in a due diligence questionnaire
- We will then compile a report on the findings. This may have a bearing on the warranties in the sale and purchase agreement

STAGE 3

THE SALE AND PURCHASE PROCESS

There are two distinct methods for structuring the sale and purchase (the agreed structure will be set out in the Heads of Terms).

- With a purchase of assets, the assets comprising the practice are acquired i.e. the goodwill, patient lists, fixtures and fittings
- With a purchase of the shares of the company that owns the business (i.e. where the practice is operated by a dental corporate), the dental corporate is acquired
- The decision on structure is usually driven by the tax position of seller
- When acting for the seller we will draft the sale agreement which is then negotiated with the buyer's solicitor with guidance from the buyer's accountant on tax and accounting aspects
- Warranties and indemnities are agreed between the buyer and seller to safeguard the buyer
- With a mixed NHS and private practice, the NHS contract will not be freely transferable. The buyer may take control of the contract via the 'partnership route' whereby the buyer goes into partnership with the seller and following completion, the seller retires from the partnership leaving the buyer as the sole contractor under the contract

STAGE 4

DEALINGS WITH THE CQC AND NHS ENGLAND

- All dental providers (whether a sole practitioner, partnership or dental corporate) must be registered with the CQC. The process can be complex if the practice to be acquired holds an NHS contract or is a partnership arrangement. We can guide you through the CQC registration process to ensure that CQC registration takes place in time for completion of the sale process

STAGE 5

COMPLETION

We will agree a timetable with the seller's / buyer's solicitors to achieve completion by the date set out in the Heads of Terms.

- The timescale to completion will depend on the practice involved. Mixed practices take longer to acquire
- In its simplest form (e.g. for the sale of a sole trader private practice) the sale and purchase can take between three and four months to complete. The sale and purchase of a mixed dental practice via the "partnership route" can take up to six months to complete
- Timescales can also be affected by CQC registration (up to three to four months should be factored in for the application), by having to obtain the consent of the landlord in the case of a lease assignment and the buyer's funding being in place

FIVE COMMON REASONS WHY TRANSACTIONS SLOW DOWN OR STALL

- The uncooperative landlord: the seller should make early contact with the landlord to assign the lease
- The CQC application: due to the procedural nature of the application process, the parties should speak to each other at all times
- Finance not in place: the buyer should keep the seller and the agent informed of any major developments, positive or negative
- Skeletons in the cupboard: the buyer may find out that a business may not be all it seems to be initially
- The unknown: both sides should be open and frank regarding the sale or purchase

If the other side's solicitor is still 'taking instructions', get the agent involved.

A DEDICATED TEAM

Parmjit Bhogal – Company and commercial Law

The Wellers healthcare team is led by Parmjit Bhogal who qualified as a solicitor in 2003 after completing his studies at University College, London and Queen Mary College, London.

For the last eight years Parmjit has specialised in the healthcare sector, using his wide ranging experience as a corporate and commercial lawyer. He regularly advises on mergers and acquisitions, transactions, management buy-outs, venture capital/private equity transactions, joint ventures and collaboration agreements.



Nina Rajani - Property

Nina deals with all aspects of commercial property and investment property and works closely with clients on acquisitions and disposals of freehold and leasehold commercial premises, with a particular specialism relating to property used for the provision of healthcare services. Nina also has expertise in landlord and tenant issues, portfolio management, site assembly and development and real estate finance.



Nina Francis - Employment

Nina advises clients in a variety of sectors. She gives advice for non-contentious matters (for example advising on Executive Service Agreements and Settlement Agreements and a number of contentious matters (for example contractual disputes, unfair dismissals, TUPE matters, and discrimination claims). Nina can also provide support on day-to-day HR queries, dealing with business-wide projects such as restructuring, redundancies and advising on contractual issues.



CONTACT US

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