

Why an up-to-date Partnership Deed is essential for a GP practice

Partnerships can of course exist without a Deed and in such a case, they are regulated by the default provisions in the Partnership Act 1890. Such partnerships are Partnerships at Will, which whilst governed by statute, will render the partners vulnerable as the default provisions can have unintended results. Some are noted later. There are perils in not having an effective and current Partnership Deed.

Having a Deed prepared by an appropriately experienced solicitor will override the default statutory provisions that would otherwise govern the partnership and provide much needed security. A well drafted Partnership Deed will contain the basic necessary information to ensure the partnership operates smoothly.

Such information includes, but is not limited to:

- Who the partners are
- The commencement date of the partnership
- The nature of the partnership's business and its name
- The sharing of profits and losses
- The investments to be made as the capital of the partnership
- The management of the partnership including arrangements for voting, absences, locum cover etc
- The partners' obligations to the firm
- The resolution of partnership disputes
- What happens upon dissolution of the partnership or upon the admission, death or retirement of any partner
- Covenants from partners; including post-retirement covenants

While this appears somewhat obvious, the absence of a properly drafted Partnership Deed may lead to problems emerging in the course of time. Practices are urged to adopt a preventative approach by formalising their Partnership, rather than suffer when problems do arise. Partnership disputes are inherently disruptive and very costly both in terms of stress and money. Our experience is that disputes arising out of a Partnership at Will cost far more than a dispute arising when there is a properly formalised Deed. Formalised Partnership Deeds do not prevent disputes, but do provide a method by which to approach such disputes with hope of a resolution.

It is crucial that the Partnership Deed is up-to-date and effective. Where there is an appropriate clause in a Deed, when a partner retires or dies, the terms of the Deed will determine the basis upon which they leave the partnership and the Deed will continue to apply between the continuing partners. However, when a new partner joins a partnership, whether they are on probation or not, if appropriate

arrangements are not put in place, the previous Partnership Deed will not continue to govern this new partnership and the partnership will be a Partnership at Will.

A Partnership at Will can be brought to an end at any time by one of the partners giving notice to the other(s), for example "*I have lost the will to be in partnership with you*". Not only is this the most unstable relationship, there are a number of default provisions that will almost certainly not reflect the intended arrangements.

For example, under the Partnership Act, the partners are to share equally both the profits *and* the debts of the practice. Often this equal division does not reflect the individual contributions made. A Partnership Deed, by contrast, allows for individual interests and profit shares to be clearly stated.

When a partner decides to leave a Partnership at Will, the partnership dissolves automatically. This also happens when a partner is asked to leave or when a new partner joins. Such dissolution may cause a forced sale of the partnership assets, potentially including the practice premises, redundancy of practice staff and automatic termination of contractual arrangements. The potential problems are multitudinous. In stark contrast, under a formalised Partnership Deed, dissolution should not occur unless all of the partners agree or such dissolution is ordered by the court or an arbitrator.

Lockharts is top-ranked in Chambers UK 2015 in the area of Partnership Law and provides tailored Partnership Deeds, which meet the necessary requirements to assist the smooth operation of any practice.

Further enquiries can be directed in the first instance to csd@lockharts.co.uk or by calling our Partnership Department headed by Ros Parkin (Managing Partner) on 0207 383 7111, who will be delighted to help you with any practice needs you may have.

