



The surgery is likely to be one of the most valuable assets GPs own, both as an individual and a partnership, so it is important to ensure that your interest is protected

# Document surgery shares correctly

Transfer the property title to current owners to avoid problems for partners. By *Jennifer Lewis*

GPs who own their surgery as a partnership asset should take great care to ensure that the partners who currently own a share in it have legal title and the size of their share is clearly recorded. Overlooking this can lead to expensive problems.

When a partner leaves, GPs will spend a great deal of time sorting out the partnership accounts and buying the outgoing partner's share but do not always consider what happens to the property title.

Avoiding difficulties with regard to ownership and future sale of a property is quite simple if you follow the steps set out in the box.

## A cautionary tale

This cautionary tale is an actual case involving GPs where disaster was only narrowly averted.

We acted for a GP partnership with two current partners (Dr A and Dr B) and a retired partner (Dr Z). Despite the fact that Dr Z had left the partnership some time ago, they owned the property jointly but now wanted to sell it.

The relationship of the current and former partners as property owners had not been regulated in a trust deed or lease. While the three were all correctly named on the title, they

## PROTECT YOUR SURGERY SHARE

- Check your title to the property whether it is a lease or you own the property.
- Ensure that the names on the lease or freehold title are those of the GPs who own the property.
- When a partner leaves ensure that the title to the property is correctly transferred.
- Where a partner retains an interest in the property ensure that this is documented. There could, for example, be a deed of trust setting out the proportion of the property owned by the retired partner.
- If you have a mortgage over the property the lender should be notified any time there is a change in ownership.

had not clarified the proportions in which they owned their share. This only came to light later.

The GPs all confirmed that they approved the sale and agreed that the sale proceeds should be used to pay off the joint mortgage secured against the surgery. Contracts were exchanged with the sale to complete 20 days later.

Then we received a letter from Dr Z confirming that his was a 50 per cent share – we had been led to believe that the three had equal shares. More importantly he stated that he had 'paid off' his share of the mortgage debt, even though the property remained mortgaged.

The amount required to repay this mortgage was only £5,000

less than the sale price. With the property selling for £200,000 Dr Z's share should have been £100,000. But as the mortgage was £195,000, repaying it would mean only £5,000 for Dr Z, leaving him £95,000 out of pocket.

We could either go ahead with the sale leaving Dr Z short by £95,000 or tell the buyers that we were unable to complete.

In a climate where buyers are hard to find the latter was not an attractive option.

The GPs then had some good fortune. The buyers were in no rush to complete. Dr A and Dr B owned another property, also under mortgage to the same bank, but this mortgage was nominal in comparison with the property's value. Importantly,



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the two did not dispute that Dr Z owned 50 per cent of the surgery free from mortgage.

## Dispute avoided

If this had not been the case our options would have been limited. Unless Drs A and B could raise the £95,000 quickly they would have been forced to pull out of the sale.

Alternatively, Dr Z would have had to be prepared to accept some sort of loan arrangement (perhaps guaranteed against Dr A and Dr B's personal property).

If the two current partners had denied Dr Z's share was 50 per cent, a serious dispute would have resulted.

Dr A and Dr B did not have £95,000.

Dr Z was prepared to accept receiving his money on the sale of the second property owned by his former partners. But while Dr Z's interest could be protected and there was enough equity in the property to achieve this, there was no guarantee as to when Dr Z would receive the money.

The problem was resolved by the bank transferring the mortgage from the first to the second property, allowing the first property to be sold and the full 50 per cent share paid to Dr Z. This could not have been done without sympathetic buyers and both mortgages being with the same lender.

Although this is an extreme example, the situation is not unusual. GPs often feel that transferring the practice premises to the current partners is time-consuming and costly.

However, the surgery is likely to be one of the most valuable assets you own, both as an individual and a partnership. So it is worth spending the time to ensure that your interest is protected. If you do not the costs of a partnership dispute or losing out on a sale may be much higher.

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