

Preparing for exit

In part two of his article **Chris Pomfret** discusses selling your practice.

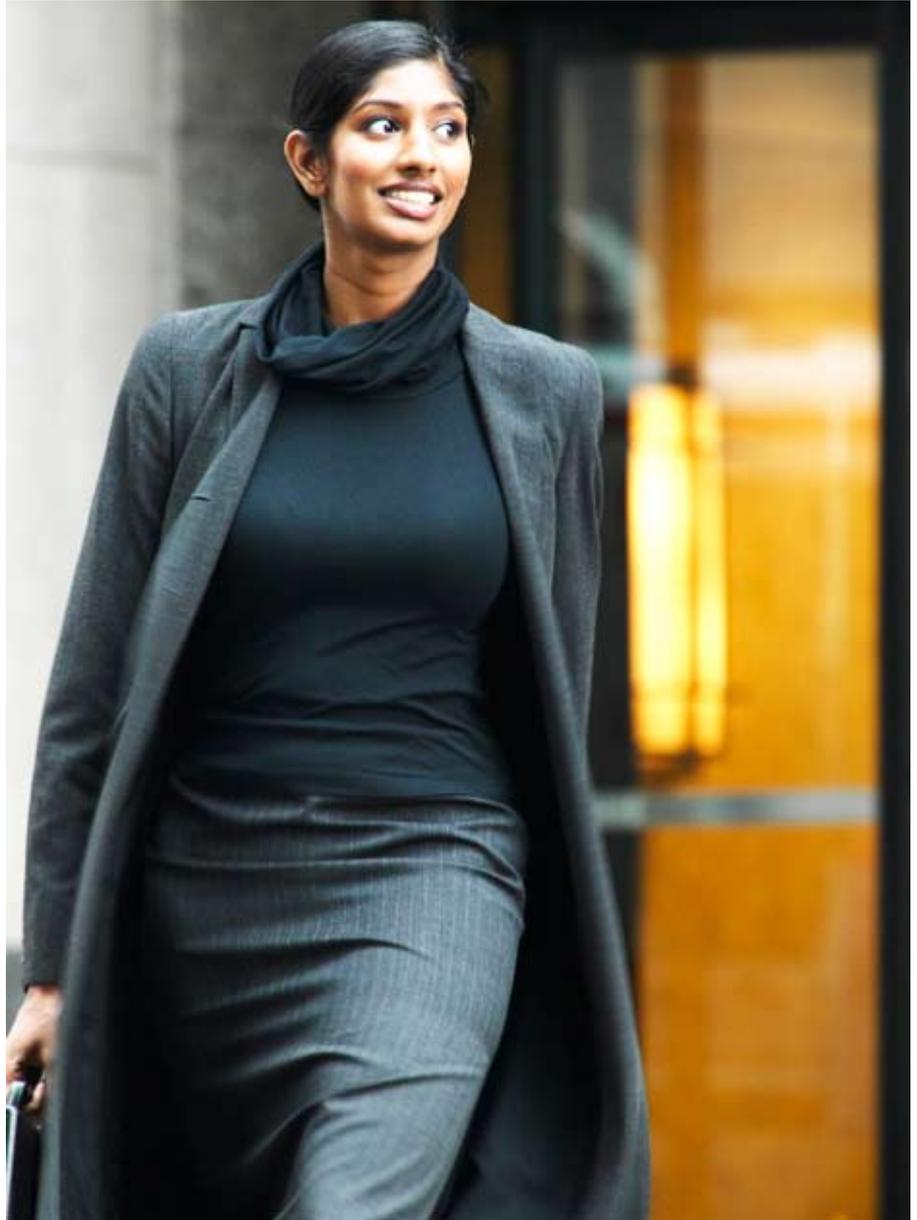
In the first of my articles (*The Dentist*, September 2010), I considered problems associated with the surgery lease. In the second, I shall be looking at preparing to sell the goodwill and assets of your practice.

If your practice is an NHS practice, and the goodwill is owned by your company, I strongly recommend that you speak to an accountant who is a member of the National Association of Specialist Dental Accountants, or to a solicitor who is a member of the NASDA Lawyers Group. You need to check that the practice has been properly incorporated, and that the NHS contract is in the name of the company and not your name. Unfortunately, many practices have

Time and expense can be saved if you take legal advice early.

not been properly incorporated, and there are serious flaws in the way those practices have been structured. Failure to have dealt with these issues properly could at best delay the sale substantially, at worst prevent it from proceeding.

The solicitor acting for your buyer will usually carry out what is called 'due diligence'. He will assess whether there are any risks to which your buyer may become exposed. He will be doing this for the benefit of your buyer and also on behalf of your buyer's lender. If the practice is owned by your company and you are selling the shares, then the due diligence



● Before selling your practice gather all the information you will need to complete the transaction.



Chris Pomfret is a member of the NASDA Lawyers Group and a partner in rhw.

process will include an investigation into the company. This will be much more detailed and likely to be more costly as a result.

Let's consider a situation where you are the sole provider and you own both the goodwill and assets.

Once again, time and expense can be saved if you take legal advice early and start gathering everything the lawyer is going to need to complete the transaction. I suggest to my dental clients that they either prepare a ring-binder of information, or set up an ↻

Electronic folder. This can then easily be passed to your solicitor for him or her to deal with. In particular, you will need the following:

- Accounts and financial statements for the last three years. You may need to obtain these from your accountant.
- An inventory of the dental equipment which is included in the sale, and a list of any items which are excluded. There is no easy way to deal with this other than to go round the practice making a list.
- Copies of the employment contracts for all your staff. If they do not have contracts, you will need to prepare a schedule for each member of staff giving all their employment details.
- Copies of associate contracts.
- Copies of the current maintenance reports and inspection certificates for your electrical equipment, autoclaves, compressors, pressure vessels and X-ray equipment.

- If yours is an NHS practice, copy of your GDS or PDS contract, any variations to it, your NHS pay statements and the 'vital signs at a glance' report.

- Copies of contracts for servicing of equipment, waste disposal or with suppliers.

- Copies of your infection control policy, and health and safety policy.

If you have an NHS practice, you will need to give thought to your performance levels and whether the PCT will require a claw-back of payments already made to you. It is more than likely that your buyer's solicitor will require you to agree a retention if there have been levels of underperformance in past years which have not been resolved with the PCT.

You will need to ask yourself if you have complied with all current regulatory requirements. As you are well aware, the current major issue

in this sphere is registration with the Care Quality Commission. What have you done about this? Even though a buyer of your practice will need to register himself, he will want to know that you have obtained registration in respect of your practice. If so, it is unlikely that he will be refused when he makes his application.

Finally, in preparing for your practice sale, may I suggest that you choose your solicitor carefully. Not all solicitors are conversant with the issues involved in selling a dental practice, especially if it is an NHS practice. You may be tempted to use the solicitor who perhaps dealt with the purchase of your house, or be swayed by cost, but that may not always be cost effective. As a professional yourself, you know that there is a base cost for all treatment if it to be done properly, and the same applies to the required legal work. ■