

Safeguarding Your Partnership

A well drafted partnership agreement will help GP partners to overcome some of the key issues that arise while operating in partnership. The biggest problem witnessed by legal advisors to the medical profession is that even if the partners do have a partnership agreement, they have failed to get incoming partners to sign up to it; this means that often they are no longer covered by its provisions, as a new partner creates a new partnership. All that is required is a simple deed of adherence and that document can also be used to update out of date provisions within your agreement.

However, if your partnership agreement is out of date or badly drafted it is unlikely to provide you the protection that it should. A partnership agreement needs to deal with certain events that will occur in the lifetime of the partnership and in some cases needs to cover the worst-case scenarios. It also needs to be updated to deal with the changing work and payment arrangements associated with a GP practice. Provisions should be included to deal with the following:

- Requiring a new partnership with an incoming partner to only take effect upon the signature of the incoming partner to a deed of adherence.



- Confirmation that the partnership will not cease upon a partner leaving the partnership.
- Identifying partnership income and individuals' earnings and being clear as to which private fees a partner is entitled to retain.
- A clear record of each partner's share of the profits and route to parity.
- Each partner's obligations in connection with the partnership and the sanctions available in the event of breach, e.g. expulsion or reduction of entitlement to income derived from the quality framework points.
- Agreed terms for holidays, sickness, maternity and paternity leave, outside appointments, sabbaticals and the like, and who bears the locum costs.
- Arrangements for retirement, expulsion or compulsory retirement provisions, including a right to suspend a disaffected partner during any notice period or to enable a period of investigation before considering expulsion.
- Accounting arrangements upon the retirement of a partner, to deal with quality points and valuation of assets.
- How decisions in relation to property occupied by the partnership are to be taken – should such decisions be retained to the property owning partners?

Read on for more on property agreements.

Property Agreements

As more and more partnerships are comprised of property owning and non-property owning partners, consideration should be given to having a separate property partnership agreement to agree terms in dealing with the property as between the property partners. These arrangements are not relevant to the non-property partners and are often better dealt with separately from the partnership agreement.

Our team specialises in advising medical partnerships and has developed a property agreement suitable for medical partnerships.

Revalidation Delayed Further

Due to changes to the Medical Act which cannot be incorporated before 2009, the GMC has confirmed that doctors will receive their licences to practice in the summer of 2009 at the earliest. This puts off to 2014 the earliest date by which doctors can face the full force of revalidation. The GMC's plan to introduce revalidation gradually means that there is still no firm start date.



BIRKETT LONG LLP

COLCHESTER OFFICE:
ESSEX HOUSE
42 CROUCH STREET
COLCHESTER CO3 3HH

CHELMSFORD OFFICE:
NUMBER ONE
LEGG STREET
CHELMSFORD CM1 1JS

T 01206 217300

T 01245 453800

E HEALTHCARELAW@BIRKETTLONG.CO.UK
WWW.BIRKETTLONG.CO.UK

Regulatory Changes Under the Health and Social Care Bill

The Bill has passed its final stages in the House of Commons and has been debated in the Lords.

It contains four key policy areas:

Care Quality Commission

The Care Quality Commission will be a new integrated regulator for health and adult social care bringing together existing health and social care regulators into one regulatory body, with tough new powers to ensure safe and high quality services.

The regulation of health and adult social care is currently carried out by the Commission for Healthcare, Audit and Inspection (known as the Healthcare Commission) and the Commission for Social Care Inspection. The Mental Health Act Commission currently has monitoring functions with regard to the operation of the Mental Health Act 1983. The legislation will replace these three bodies and create a single, integrated, regulator for health and adult social care - the Care Quality Commission.

The Bill defines the new Commission's functions in assuring safety and quality, performance assessment of commissioners and providers, monitoring the operation of the Mental Health Act and ensuring that regulation and inspection activity across health and adult social care is co-ordinated and managed.

Professional Regulation

The reform of professional regulation is intended to enhance public and professional confidence in the system of professional regulation and strengthen clinical governance as part of the Government's response to the Shipman Inquiry.

Public Health Protection Measures

The public health protection part of the Bill provides a comprehensive set of public health measures to help prevent and control the spread of serious diseases caused by infection and contamination.

Health in Pregnancy Grant

The Health in Pregnancy Grant will be a one-off payment to expectant mothers ordinarily resident in the UK, to help with the costs of a healthy lifestyle, including diet, in the later stages of pregnancy.



NHS Funded Services May Now Advertise

The Department of Health has announced that all NHS-funded services will now be allowed to advertise; something they were previously prohibited from doing. All adverts promoting the NHS must adhere to the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code), which is enforced by the Advertising Standards Authority (ASA).

A new NHS Promotion Code (NHS Code) came in to force on 19 March 2008. The NHS Code requires NHS providers to adhere to the CAP Code in its entirety. It highlights some of the key CAP Code rules and sets out additional NHS-specific rules, which will fall outside the ASA's remit. Primary Care Trusts and Strategic Health Authorities will adjudicate and enforce the NHS-specific requirements.

The NHS Code is intended to ensure that advertising material is accurate and fair and should protect patients, the public and referring clinicians from offensive or misleading material. Also, it should ensure that the adverts do not damage the brand or reputation of the NHS.



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BIRKETT LONG LLP
COLCHESTER OFFICE: ESSEX HOUSE
42 CROUCH STREET
COLCHESTER CO3 3HH
CHELMSFORD OFFICE:
NUMBER ONE
LEGG STREET
CHELMSFORD CM1 1JS

T 01206 217300 T 01245 453800

E HEALTHCARELAW@BIRKETTLONG.CO.UK
WWW.BIRKETTLONG.CO.UK