aisma

Guide to ...

Managing changes in the practice partnership

People come and go and GP practices are no exception. At some point, a partner will leave, whether to retire, emigrate or simply move elsewhere, and this will affect the partnership.

This guide has been specially prepared by members of the **Association of Independent Specialist Medical Accountants** to help GPs and practice managers through the steps involved in a change in the practice partnership.

Plan in advance

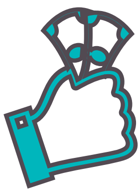
At well-run practices partners have regular meetings to discuss strategy. These will include discussions around retirement and future plans for all the partners so that the practice as a whole can plan for the future.

Knowing now that one of the partners is planning to retire in five or even ten years gives the practice time in advance to ensure things are in place to manage the change smoothly. Do you, for example, recruit a salaried GP now with the intention that they will become a partner within five years? There is plenty of time to interview and find the perfect candidate, and you aren't rushing at the last minute to desperately fill an unexpected void.

Avoid kneejerk reactions

Sometimes partners will leave suddenly, for example due to ill-health. When this happens avoid kneejerk reactions and give proper consideration to whether immediately recruiting a new partner is the right thing to do.

The practice might be better off both clinically and financially by not replacing like-for-like. Examine whether the leaving partner's sessions could be spread out between one or more of the remaining partners, perhaps by an existing two or three session partner who would be happy to pick up a couple of additional sessions permanently. Consider recruiting a nurse practitioner to help take some of the pressure off the remaining partners. It may be that you need to recruit like-for-like, but it is important to stand back and ensure this is the right decision for the practice, both now and in the future.



Consider pay-outs

Practices also need to consider the implications of paying out a leaving partner. Cash flow can be a headache for many practices. Would a partner exiting the practice with a large current account cause a significant strain on practice finances? The practice should make sure it has sufficient cash reserves to pay out a retiring partner or agree a payment plan for pay-outs. Consideration should be given to potential superannuation shortfalls and seniority claw-backs before pay-outs are made. This will avoid any issues in reclaiming these sums from a partner several years after they have left.

The partnership agreement should have a definitive answer to how pay-outs should work.

Create new current accounts

Decide if the practice expects a joining partner to introduce capital or take reduced drawings to create a current account balance come the financial year-end. This latter situation is not uncommon, but the joining partner will need to have this explained prior to starting at the practice.

If cash flow is restricted, creating suitable reserves of working capital within the practice is important and can be achieved with good planning.

Premises issues

The comings and goings of partners may have an effect on the practice premises, whether the partners own or rent the building. For example, if the partners own the building, does a leaving partner want to sell or a joining partner want to buy?

Of course in the ideal world the retiring partner will sell their share of the property to a joining partner. In order to do this the property will need a valuation and it is important these are carried out by suitably qualified surveyors who are experienced in dealing with medical practices.

Ensure the basis of valuation is as clear and unambiguous as possible in the partnership deed to prevent disputes when it comes to paying out the retiring partner's share of the property. It is not unknown for disputes to involve six figure sums of money.

▶ Reluctant to sell?

There are situations where no one wants to sell. If property returns are healthy they are seen by many retiring partners as a good way to substitute their earnings. This has potential implications for certain tax reliefs and charges that need to be examined in detail and are beyond the scope of this guide.

▶ Reluctant to buy?

The other side of the coin is that new partners sometimes don't want to buy into the practice property, wishing to avoid the additional tie-in and responsibility of a large loan. Being flexible, and having open discussions about what each partner is looking for, should ensure succession goes smoothly.

▶ Liaise with the practice landlord

If the practice rents its building from NHS Property Services Ltd or a third party landlord, there are other considerations. A change in partners is of course a change in partnership, which may have implications on any lease agreement you have. More unscrupulous landlords could take advantage of this situation and decide a rent review is in order. As with all leases and agreements, your solicitor should have reviewed this prior to signature, but be cautious and ensure everything is in order before any changes happen.

Tax and National Insurance

A new partner joining needs to register with the taxman as a self employed individual if they aren't already and the partnership will also need to inform HMRC of the changes. The GP will also need to be set up to pay Class 2 National Insurance. Conversations with the GP about how the UK tax system works for self-employed individuals should also take place. This prevents any issues come the 31 January and 31 July tax payment deadlines.

Who pays the tax?

New partners should also be told which party will be paying their personal tax liability in January and July. Some practices set aside individual tax payments while others expect their partners to save some drawings to pay tax their liabilities. Make arrangements to help new partners understand how the practice's finances work so that everyone in the partnership has the same understanding.

HMRC housekeeping

Departing partners also need to make HMRC aware they have left, and there may also be other issues to consider depending on why they are leaving. Retiring may not necessarily mean a partner's tax payments will suddenly drop, and if your practice doesn't have a March year end, overlap reliefs will come into effect. These involve complex rules that need to be understood by all parties concerned so that everyone is aware of all of the consequences of any decisions made.

As with all things relating to HMRC, timing is everything and a quick phone call to your accountants/tax advisors should ensure you are taking advantage of any particular allowances.

Other housekeeping

- Cancel subscriptions of leaving partner
- Advise relevant suppliers
- Advise practice insurers
- Post notices in reception area
- Amend letterhead and other stationery
- Amend website
- Change practice signs
- Advise solicitors to alter property "title" document

CCG housekeeping

When there are changes in partnership the CCG must be informed so that it can confirm that the current GMS/PMS contract is still valid.

Pensions agency housekeeping

New partners should ask NHS Pensions to send copies of any annual allowance statements to the practice accountant. The agency should also receive authority from new partners to talk to the practice accountant on their behalf.

Practice agreement

The practice agreement is the heart of any partnership especially when it comes to changes in the partnership membership. Whether you are recruiting a new partner to replace a departing one, or you are expanding with an additional partner, this is a change in the partnership and a new partnership agreement needs to be drafted.

If you regularly update and monitor your partnership agreement, this shouldn't be a costly exercise, but if you haven't looked at your agreement in several years, a fair amount of work may be needed.

It is also a good opportunity to change anything in the document which none of you agree with and add in anything which may be useful, as it is much easier to agree changes now with the new partnership than it will be several years in. Open discussion remains key to ensuring that everyone is happy with the document and you don't create resentment from the first day.

▶ Notice requirements

The partnership agreement should clarify what happens if a partner wants to leave. What is the notice period? How many partners can give notice in a six-month period? What happens if they refuse to work their notice? When are they to be paid any money due to them? Is any interest to be paid, at what rate and for what period?

The agreement should make clear the penalties for people who don't comply with notice requirements. Also, since it can take the NHS up to three years to sort out a partner's seniority entitlement, the document should outline how late payments or clawbacks will be dealt with.

Many agreements don't cover 24-hour retirement. Is a partner able to take 24-hour retirement and be sure the other partners will have them back?

▶ Property ownership

The position for new partners also needs to be considered. It is vital to be clear about whether new partners are expected to buy in to premises. Historically, not all partners have had to be property owners, but ownership is increasingly viewed as a good idea.

New partners who decide not to buy in may leave one partner with the whole burden of loan repayments, which are often not fully covered by notional rent income.

Involve new partners

A new partner needs to be involved in the process to ensure they "buy in" to the document and agree to its contents. Of course a leaving partner won't have any input within the new agreement, and their leaving needs to follow the old agreement.

Everyone wants to avoid fallings out when a partner leaves, and the practice agreement is the fall-back position should disputes occur since it would have been arranged when everyone was happy. If at that time it was fair it should still be fair now.

Flexibility is key

At the end of the day, the key to all succession is flexibility, as you are setting your practice up for the future, not right now. What was accepted as the norm ten or even 30 years ago when you joined may not be appropriate for the 30 year-old you are trying to entice into partnership now. It's all about compromise and the key to compromise is that nobody should lose.

Case study

A practice with five partners suddenly found itself in a tricky situation when two partners left within six months of each other. Through regular partnership meetings, it had been understood that the senior partner was planning to retire imminently. She was within six months of her retirement date when a partner in his early 50s resigned suddenly due to ill health without being able to work the three-month notice period stated in the partnership agreement.

The practice needed to move quickly to fill the void left by the two partners. Fortunately the practice had already made plans to approach one of its experienced salaried GPs with the offer of a salaried partnership, with the intention that a full equity partnership would be offered after an agreed period. Coincidentally, the practice's trainee GP had proved to be a strong-enough candidate to be offered a similar salaried partner position.

What could have proved a difficult recruitment problem was solved in part by the practice making plans in advance of the senior partner's retirement to offer a partnership to the salaried GP. Having a high performing GP trainee who was prepared to make the leap into partnership was an additional stroke of luck.