

Planning to retire? Don't forget about your lease liabilities



If you're a partner in a GP practice and have decided to retire, then there are many issues that both you and the remaining partners need to consider. Making a smooth exit is likely to be top of your agenda and one important area that can often be overlooked is dealing with lease obligations. Your responsibilities will vary depending on how the lease is 'owned'. Here, we examine three of the most common scenarios and what the implications may be, along with offering advice on how best to mitigate any liabilities.

1. Named at Land Registry

If your lease term is for a period of seven years or more, then it should be registered at the Land Registry. It is also possible to register leases of a shorter term, although this is rare.

Leases registered at the Land Registry are available to the public and show you as having rights and obligations associated with the property. Public bodies and other third parties with an interest in the property may, therefore, look to you and the other named parties to meet any obligations that arise.

When you leave the partnership, assuming you are also intending to leave your lease liabilities behind, it is important that you sign a TR1 to remove your name from the Land Registry and transfer the title to an ongoing member of the partnership. There can only be 4 people named on the Land Registry title at any one time, so if there are more than 4 ongoing partners they will have to agree who gets to replace you.

2. Named tenant on the lease

If you are named on a lease or have taken over the lease by way of a formal assignment, then the landlord will look to you and the other signatories as joint tenants. You will have responsibility for fulfilling all obligations under the lease and your liabilities will be unlimited - unless you have agreed anything different with your landlord. If any problems arise, such as unpaid rent, required repairs or dilapidations, the landlord could potentially sue you to put things right. Unlike the Land Registry title there are no restrictions on the number of signatories to a lease, so all the partners will usually sign the lease in order to share risk equally.

Once you leave the partnership, you will have little control over what happens to the building, and if your name remains on the lease you cannot easily manage any risk. You will normally want to sign a Deed of Assignment as soon as possible.

A landlord, by contrast, will typically want a minimum number of partners named on the lease at all times so that he can hold as many people as possible personally liable. This can be an issue, particularly in smaller partnerships with recruitment problems, and is commonly known as the **'last man standing' problem**. There are several ways to mitigate the problem, but it

is always advisable to seek legal advice at an early stage if you think you may be facing this situation.

3. Tied into the lease via the Partnership Deed

A partnership deed will typically document a trust relationship, which seeks to ensure that those partners who are not named at the Land Registry or on the lease, will still have the same rights and obligations as those partners who are. This helps ensure everybody is treated equally. Some partners will, therefore, find that they are able to retire without having to notify either the land Registry or their landlord.

However, just because you retire doesn't mean that any obligations under the partnership deed will end. It is important when leaving a partnership, to understand what you are responsible for and whether the partnership deed permits you to be released from these obligations.

If you don't have a valid partnership deed, or it is unclear about this issue, then the safest course of action is to draw up a deed of retirement, which will document which past and future obligations you are released from.

In the event that it proves impossible to eliminate all liabilities associated with the lease, another option would be for the partners to provide each other with indemnities against any claims. Just be aware that such indemnities need to be very carefully worded, as they are often contested when one party seeks to enforce them.

Other considerations

Dealing with lease obligations is just one of the many areas that need consideration when you retire. For more expert advice on what to think about and the steps you can take to cover off your risks, see our **Retirement Planning Checklist**.

For more information about any of the issues covered here, please contact Daphne Robertson on 01483 511555 or email d.robertson@drsolicitors.com