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# Employment policies – know yours inside out

## Frank Taylor & Associates offers practical advice for principals to stay on the right side of employment laws

Without doubt one of the biggest headaches principals face has to be staffing issues, and I only need to spend a short time in the company of employment lawyers before I am regaled with horror stories that could be avoided if only principals had sought expert advice. Did you know that even before you have employed anyone you are potentially breaching employment law and making yourself vulnerable to claims via the employment tribunal?

### Perceived discrimination

Cases have been won against would-be employers who have not followed a proper process, for example a case was recently won against an employer where he had interviewed three people, two men and one woman. The woman could see that during the interview the potential employer was not taking notes but doodling on the pad. She took the case to an employment tribunal and the employer had to produce his interview notes; in the

case of the two men he had interviewed he had written notes, on the woman's note he had scribbled.

His argument was it was only a doodle and that he was listening to the woman - the tribunal did not agree and he lost the case, and it was found to be sex discrimination as he had treated the woman differently to the two men. The compensation awarded to the woman was considerable – and remember, this was before he had even employed anyone.

### Clear procedures

If you use a standard British Dental Association contract, some of the binding out clauses are written in such a way they are deemed to be

ambiguous. So if an associate has given you three months' notice, during that time there are no expressed clauses restricting what the associate can say to patients, which could potentially have a detrimental effect on your goodwill. And, with ambiguous clauses it may be impossible to enforce restrictions.

Working on the assumption you have issued contracts, you are advised not to attach

any policies to the contract as this makes the policies



contractual, meaning you have to follow the policies precisely; if you failed to do so you could be in breach of contract. Likewise if you have a separate equality and diversity procedure and a separate grievance procedure, these should be all kept in a separate non-contractual staff handbook, so you can change the policies with ease.

### Protect yourself

You should, in advance of any social gathering such as a Christmas party, issue a memo to all of the team including the self-employed members, regarding their behaviour during the event. This is because as the employer you are still responsible for what happens during these events. This should extend to cover the journey home – there are lots of horror stories out there and the best way to protect yourself is to make sure you know what you need to do.

These are some examples of employment issues that have the potential to affect a principal and the business, and my suggestion is to review your employment and human resources (HR) policies, particularly as employment and recruitment falls under one of the Care Quality Commission's new key lines of enquiries - that of being well led and well managed. If you have any queries, give me a call and let me put you in touch with an employment and HR specialist. **D**

**FOR MORE INFORMATION** call Frank Taylor & Associates on 0845 612 3434 or the regional office on 0161 393 7107, email [team@ft-associates.com](mailto:team@ft-associates.com) or visit [www.ft-associates.com](http://www.ft-associates.com).

### Practice one – West Sussex

**Practice location** – the practice is situated in a busy town location, which is currently seeing a massive development with over 300 new houses being built and additional schools.

**Practice type** – this is a three-surgery practice, which is a partnership and is being sold to facilitate the two principals' retirements. This is leasehold sale with a 15-year lease; annual rent of £15,000.

**Practice financials** – the gross fee income from the management information for the past 12 months is in the region of £450,000 and is derived from 21% NHS-GDS contract, 67% fee per item, and 12% capitation plans. The gross has been generated from the two principals both working five days a week and a hygienist working two days a week. Professionals complementary to the clinical team comprise of two full-time dental nurses and two part-time receptionists.

**Price achieved** – a price of £460,000 was achieved, which was in excess of the asking price. Funding for this purchase was sourced by FT&A Finance.

**Agent's comments** – the location of this practice is ideal and with a very well established patient base; however, the new owner is excited by the prospect of the increase in housing and new schools in the area, as this will surely be a significant opportunity to develop the practice even further. One of the two co-principals will be staying on for a limited period to ensure a smooth handover to the new owner and this is always welcome.

### Practice two – London

**Practice location** – the practice occupies the first floor of a health centre and is ideally situated on a main high street with a mix of residential homes and shops in close proximity. There was originally a licence rather than a lease in place, which is quite unusual and a new lease has been agreed.

**Practice type** – this is a five-surgery predominantly NHS practice, which has been established for nearly 40 years. The practice is a profit share partnership with two partners and is being sold to facilitate retirement of one of the principals.

**Practice financials** – the gross fee income from the management information for the past 12 months is in the region of £1,200,000 - 73% is derived from UDA and UOA activity, 26% from fee per item and 1% from sundries. This is a mainly associate run practice, with one of the principals working 2.5 days a fortnight at the practice, performing orthodontics. There are three full-time and three part-time associates, a hygienist who works two days a week, six dental nurses and a decontamination room operative. Professionals complementary to the clinical team comprise two receptionists and an office assistant. The principals are actively involved in the management of the practice.

**Price achieved** – a price of £2,520,000 was achieved, which was in excess of the asking price and finance was sourced via FT&A Finance.

**Agent's comments** – this practice proved to be very popular as it was a combination of location and a healthy NHS-GDS and orthodontic contracts, and due to the volume of interest the sale went to sealed bids. The existing principal is going to remain and continue to perform the orthodontic work, which frees the new principal to take on some of the work carried out by the existing associates, which will have an immediate impact on the profitability of the practice.

### Practice three – Gloucestershire

**Practice location** – this practice occupies a prominent property located with a combination of residential and businesses in local proximity.

**Practice type** – this is a four-surgery, mainly private practice being sold as a leasehold. It is a share sale, which means the legal entity is a limited company. There is a small NHS-GDS contract being held outside the limited company and this is being purchased as an asset and is not part of the limited company.

**Practice financials** – the gross fee income from the management information for the past 12 months is in the region of £1,200,000, which comprises 99% private and 1% NHS-GDS contract. The gross has been generated from one of the principals working 4.5 days a week and one working 2.5 days a week; there are also two part-time associates, and one employed and one self-employed hygienist. In addition there are four part-time dental nurses, three part-time receptionists and one part-time bookkeeper.

**Price achieved** – a price of £1,000,000 was achieved, which was very slightly less than the asking price.

**Agent's comments** – the co-principals had decided they wanted to sell the dental practice but continue working at the practice for a significant period of time to be able to focus on the clinical work. This would not suit all potential purchasers as most purchasers are looking to work in the practices that they buy. This purchaser was looking for an additional practice to add to his dental portfolio and is delighted it is going to continue to have the presence of the existing principals *in situ*.

### Practice four – Surrey

**Practice location** – this practice is located in the ground floor of a block of flats and has a very central location with a number of excellent road and rail links. There is parking at the practice and additional street parking.

**Practice type** – this is a two-surgery private practice, which has been established for over 130 years and is being sold to facilitate a retirement. It is a leasehold practice with 12 years unexpired on the lease. Annual rent is £9,600 with rent reviews every three years.

**Practice financials** – the gross income from the management information for the previous 12 months was in the region of £400,000 per annum and is derived 62% of NHS-GDS and the balance of 38% from fee per item. The principal works two days a week and an associate works three and a half days a week. In addition there is a part-time practice manager/receptionist, a full-time nurse and two part-time nurses/receptionists.

**Price achieved** – a price of £875,000 was achieved, which was significantly in excess of the asking price and the funding was sourced from FT&A Finance.

**Agent's comments** – with a UDA rate of £28.75, combined with a very popular location, this practice sale certainly exceeded the expectations of the principal. There was no shortage of offers and the sale went to the sealed bid process. The new principal already has great plans for developing the practice and with the existing adjusted net profit sitting at 46% he will be doing so from a position of strength.