



# Practice Sales Guide

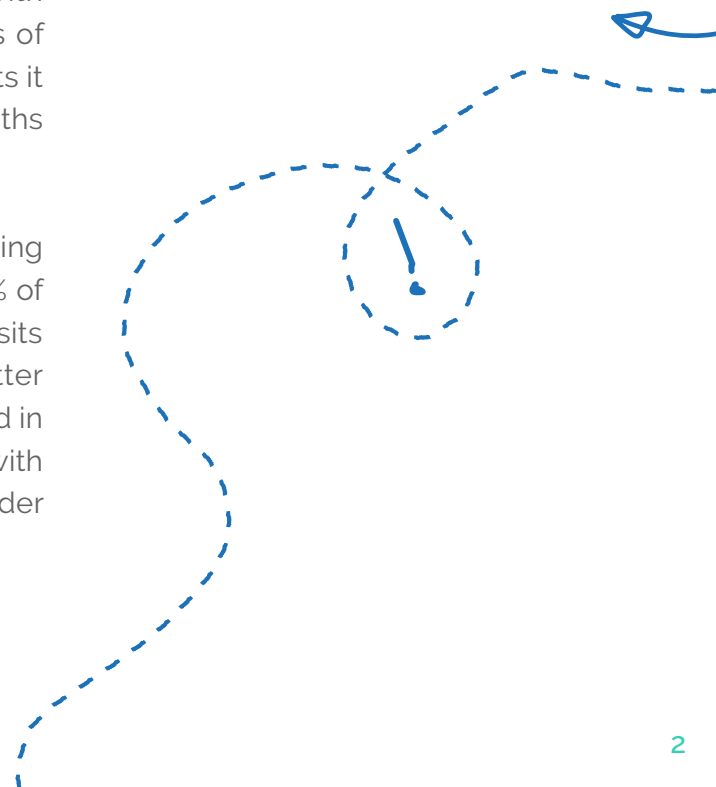
## Post-Acceptance

## Heads of Terms Agreement

Some solicitors hate us for it but we deliberately draw up a reasonably extensive Heads of Terms Agreement which covers all of the key commercial points to ensure everyone has agreed to them at the outset.

Deals without Heads of Terms do have a significantly higher abortive rate. This saves considerable time in the transaction and also wasted fees if the main commercial terms cannot be agreed. We would advise caution in proceeding with buyers who do not want to commit to a set of Heads of Terms and the placing of a deposit. Experience suggests it is these buyers who are far more likely to withdraw months later and/or keep moving the goalposts.

Depending on how and with whom the buyer is financing the practice purchase, the deposit will range from 1-2% of the expected sale price. We do not tend to take deposits from large corporates as their buying strategy is better prescribed than with some independent purchasers and in our experience these deals only ever fail due to issues with the practice rather than buyer issues which would render the deposit forfeitable.



## CQC

The CQC is one of the most important processes in the transaction as often it is now the slowest, so it is important it is underway ASAP once a deal has been agreed.

We have dedicated Sales Progression Managers, who will guide you through this process and complete the application forms on your behalf. They will likely require you to procure a CQC-Countersigned DBS Check which can only be obtained from the CQC Website although they will advise you on the requirements as the deal progresses.

The CQC aim towards a 12-week KPI for the processing of applications from submission, but you should be aware that the application cannot be submitted until all parties are in receipt of the correct DBS. This can take up to a further four weeks to procure and even after the twelve weeks the CQC registration inspectors are often so busy that they cannot accommodate an interview for up to two-three weeks after the end of the twelve weeks, often longer in some areas of England. Therefore, in total you can be beyond five to six months before you are even in a position to serve notice on the NHS, which is why it is important this process is started quickly.



## The Legal Process

There are a number of balls to juggle in terms of the legal process, so it is vital that all of the balls are always in the air. This is the 'modus operandi' of our Sales Progression Managers;

- ▶ **The Property** – there are a number of ways the property can hold up a transaction so please read our separate guide in the Dramas & Pitfalls Series about property to ensure you swerve these issues.
- ▶ **The Sale and Purchase Agreement** – this is the big document that the solicitors may spend weeks trying to agree. Some solicitors will not even issue a draft SPA until all the Due Diligence is in receipt. We often feel this is counter-productive if there are just a couple of documents missing and not all solicitors work this way but given how much there is to negotiate in this document it does demonstrate the importance of the availability of the due diligence.

### Top Tip

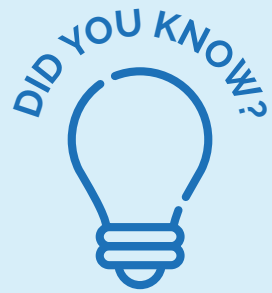


**The CQC process is a factor for delay. Commence this process as soon as HOTs are agreed.**

▶ **The Diligence Process** – This is the most painstaking side of selling a dental business as some of the Due Diligence Questionnaires can ask the proverbial equivalent of your associate's inside leg measurement with a lot of the information presented being just as useful. However, if you work with specialist dental solicitors they know what they are asking for better than a non-specialist which will tend to do away with some of the most irrelevant questions but even still you may find the process tedious. Experience has proven that arguing the usefulness of some of the questions is a slower process than just answering the question, so we would suggest that you tackle this part of the process with an open mind. Furthermore, we like our clients to try and present their buyer with a full suite of Due Diligence documents within a month of Heads of Terms being agreed. For this reason it may be worthwhile using our DD Document Checklist in advance of selecting a purchaser to ensure you have all the documents to hand.

▶ **The Ancillary Documents** – besides the Sale Contract there will be a number of smaller documents that the solicitors need to get agreed. A number of these are templates which require little debate but some may take some time. An example of these could include the NHS Partnership Documents.

▶ **The Disclosure Letter** – technically an ancillary document but gets a special mention because this is the document where you can 'hedge your bets' in the sense that if you feel you could potentially be in breach of one of the indemnities or warranties in the sale agreement, you can disclose it in this letter which means the buyer cannot sue you for it. An example of this is that during the diligence process you will be asked how many patients the practice has. Most vendors do not know the answer to this question so answer the question by running a software report to see how many patients they have seen in a given period. E.g. 2,636. When it comes to the disclosure letter you would disclose that you are unsure how many patients the practice has but you have based the 2,636 on a software report showing the number of practices seen in the last x months. This means that if your purchaser takes over the practice and finds that in the appointment book in their opinion you only have 1,800 active patients (they might have viewed a shorter period than x months) then they can't sue you because you limited the warranty to the number you provided being correct based on that method of data collection.



**Exchange of contracts may be at the same time as completion or it might be weeks in advance, but this is the point upon which both buyer and seller are legally committed.**



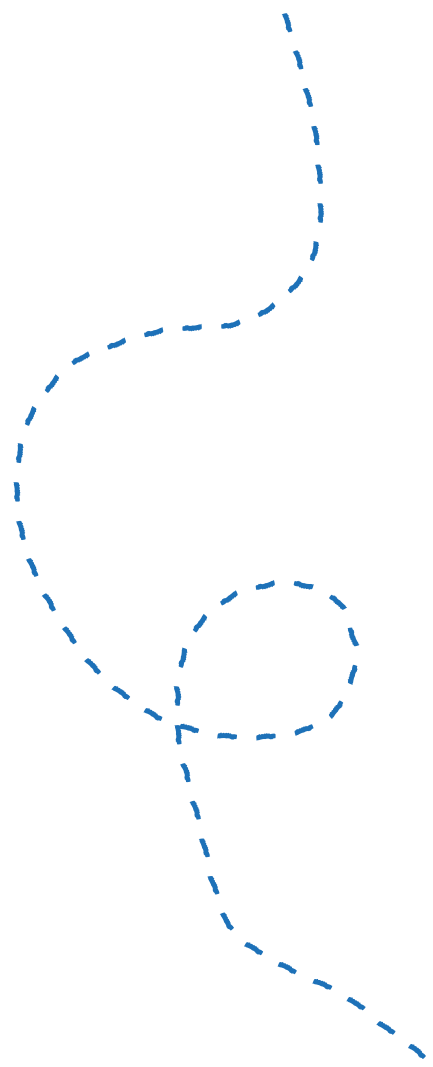
## The Finance Process

If your buyer is getting money from a bank there will also be steps to follow in this process;

- ▶ **Full Credit Approval** – a Bank Manager will not do this until a buyer's offer has been accepted because writing a credit paper takes considerable time and is a waste of time if the offer is latterly not accepted. It is one of those annoying chicken and egg situations in the practice sales process. Different banks take different lengths of time 'in-credit' from as little as 72 hours to 3-4 weeks but more often the delay is with the Bank Manager actually submitting the paper to credit. For this reason we ask for a credit backed bank letter within six weeks of receipt of Heads of Terms albeit this often takes until week eight.
- ▶ **The Target Valuation** – almost every bank will then want their own opinion on valuation, therefore they will send out a chartered valuer for an opinion on the same. This costs c£2,000 so is a considerable investment from a purchaser perspective but can take up 3-4 weeks before the valuation report is in. It is not uncommon for there to be a disagreement at this stage in valuation as ultimately a bank valuer is by virtue of purpose instructed to value pessimistically. This is where going to the whole market is advantageous as you have more proof of the value and equally as an agent we are able to provide our workings on the profitability of the practice and comparable data on other recent sales to cement the value.
- ▶ **The Security Valuation** – if as part of the financing your buyer is providing some security on another asset, it is at this stage that the security would also likely be required to be valued.

“ Experience suggests buyers who do not want to commit to a set of Heads of Terms are far more likely to withdraw months later and/or keep moving the goalposts. ”

- ▶ **Bank Requirements** – once these valuations have been agreed, there is a chance the deal may have to go back to Credit for reciting and final approval, depending on what has been agreed and the finding before a final offer letter can be provided to the client with finalised terms for the loan and the Conditions Precedent (CPs) which must be met before draw-down also otherwise known as Bank Requirements. These CPs will vary in complexity with some being easy to achieve e.g. CQC Registration / a Sale Agreement with Warranties drafted by a competent solicitor, whereas others may take some time to achieve so it is important that buyers and their financiers turn their heads to these promptly as they may involve third parties e.g. consents to second charges and/or life insurances which involve medicals and underwriting.
- ▶ **Report on Title** – once all of the CPs have been hit, all of the required bank searches and diligence has been achieved the Solicitor will provide the bank with a Report on Title upon which they make the decision whether to allow the draw down of funds to allow the purchase to complete. Procuring the funds or even obtaining what is known as Safe-to-Lend in the event of a split exchange and completion once a report on title has been submitted, can take up to two weeks with some banks.



## How long will selling my practice take?



- ▶ A free Practice Healthcheck provides a full report on value, likely deal terms and potential areas of improvement
- ▶ You might not need an agent to sell your practice but you will to get the best price

We'll help to guide you, expertly through your practice sale process

**Sue Humphrey**  
Commercial Director



**And finally...**

## **Exchange of Contracts**

This may be at the same time as completion or it might be weeks in advance but this is the point upon which both buyer and seller are legally committed and stand to lose up to 5-10% of the purchase price should they change their mind.

The exchange would nearly always be conditional and could be unwound if these conditions aren't met but normally the conditions are largely process-driven, as opposed to conditions which would render the deal unlikely to complete.

## **Completion**

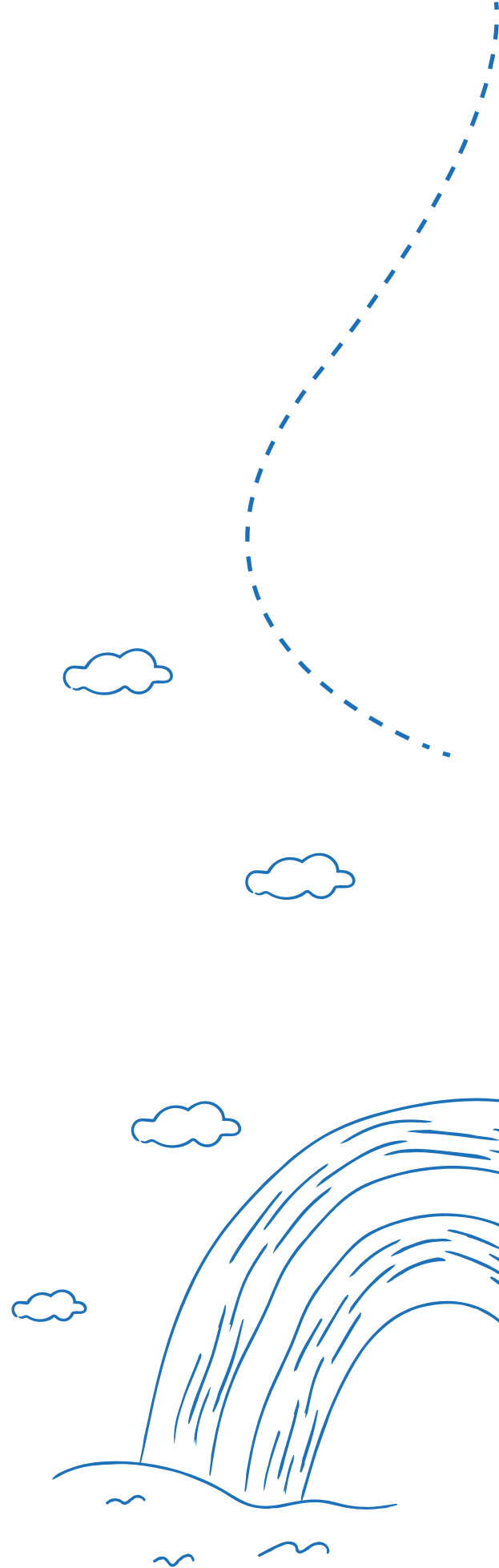
This is the point you celebrate and look forward to a life without the responsibility of the practice.

## **CQC Again**

Once again we will handle this but in most NHS practice sales there is still a bit more work to be done with transferring both the CQC and NHS contract.

**This is a whistle-stop tour of most of the processes in a practice sale. However, with different trading structures now used and with each practice being very different, there will be other processes in addition to these which will need to be followed. If you are a Limited Company please be sure to read our Dramas & Pitfalls Series as there are processes such as Net Asset Value Adjustments which will also need to be calculated.**

**For more bespoke advice please contact us on 01788 545900.**



Whatever your goal, we can help you achieve your ambition with an easy, simplified journey, to get where you want to be, with the results to show for it.

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