

Summer 08

law bites.

Bucks dentist sells through 'superb' Howell Jones



A Buckinghamshire dentist, who has sold his practice through Howell Jones, has praised the firm for service, speed and value for money.

Leo Roche sold his Steeple Claydon practice on 1st February, just eight weeks

after instructing Martyn Whiteman at Howell Jones. "Martyn was superb – an absolute rottweiler," says Leo.

"The service was exemplary, and by that I mean, whole hearted, clear, accurate and quick. There was superb professionalism and attention to detail throughout."

"The fee was also very, very reasonable coming in at less than sales agents had quoted just to put me on the market."

Leo Roche had already worked with Martyn Whiteman on some minor matters and knew Howell Jones as dental specialists. In addition, his accountant was aware of their reputation and recommended them.

What's new:

01: Bucks dentist sells through 'superb' Howell Jones

Same smile. new look.

02: How to avoid an age discrimination claim and a big bill

03: Howell Jones News

What could happen to your practice upon divorce?

04: Plan for planning

"Now I would have no hesitation in recommending the firm myself. In fact, I've already done so," says Leo.

"I am told that it normally takes nine months to sell a practice; Martyn sold mine in eight weeks."

same smile. new look.

Fresh new look for Howell Jones.

In 2007 our two law firms merged and became Howell-Jones rhw. A year later we have decided to create a new look and style for the evolving firm. We hope you like the cleaner, crisper look, and whilst the name **rhw** is no longer in use we want to re assure you that the vital people who make up our Dental Team are still here. Martyn Whiteman, Chris Pomfret, Richard Brown and Mark Waterfield are able to meet with you at any one of our five offices in Surrey or, if it is more convenient, at our office in central London.

same
new

same smile.
new look.

howell jones.
solicitors



How to avoid an age discrimination claim and a big bill - **Advice from Howell Jones Solicitors.**

Surrey executive Megan Thomas recently won a ground-breaking age discrimination case. Whilst working as the membership secretary at the Eight Members Club in London, she was told that she was not mature enough to deal with customers, and was dismissed.

The Central London Employment Tribunal found that she had been unfairly dismissed and discriminated against on the grounds of age under new laws targeting age discrimination. Ms Thomas was awarded compensation for injury to feelings.

Richard Brown, expert in employment law at Howell Jones Solicitors, says that much of the emphasis on the age discrimination laws to date has been targeted towards senior employees, retirement ages and pension rights.

“The case of Megan Thomas shows, however, that employers bear the risk of age discrimination claims throughout the entire employment lifespan, even before the person is employed; from advertising for an employee, recruitment, training to termination”.

“Many employers do not appreciate that they can be vicariously liable for the acts of their employees”, says Richard.

“The key issue is training staff to understand that age discrimination is not acceptable in the workplace and that there is a litigation risk”.

Employers need to act now to ensure that they are compliant. The Employers Forum on Age estimates that 200 age discrimination cases are reaching the tribunals every month, i.e. nearly 2,500 cases a year.

Human Resource departments need to be aware of the criteria for a claim, and what their potential defences to a claim could be. Equally they should know the form of the complainant’s questionnaire and how to respond.

- Employers should review their internal policies to make sure that there are no practices or procedures that could be construed as being ageist, or creating an ageist environment, and they should provide training to staff.
- The harassment strand of the law extends to where an individual engages in unwanted conduct which has the purpose or effect of violating dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment for the other person.

Howell Jones Solicitors, which has offices in the City of London (Old Bailey) Walton-Upon-Thames, Kingston-Upon-Thames, Guildford and Leatherhead in Surrey, offer a corporate “health check” review of internal policies.

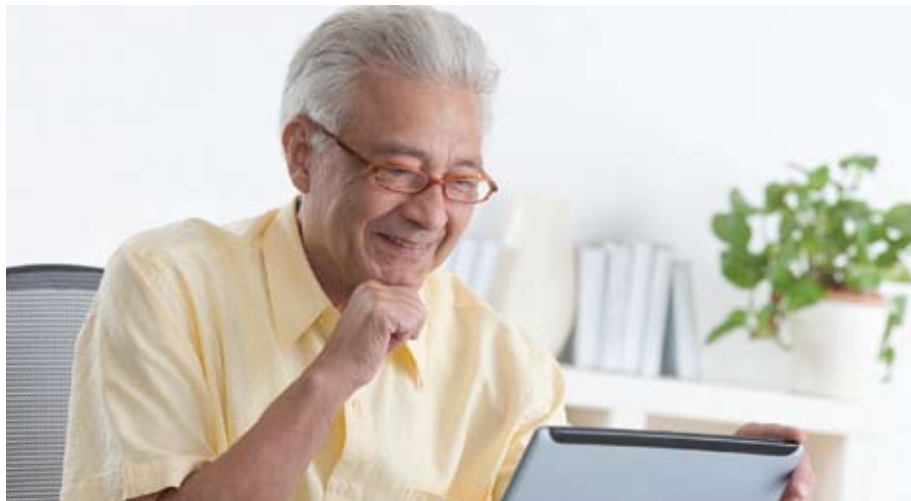
This is especially relevant as there is a statutory defence for the employer to prove that they took such steps as were reasonably practicable to prevent employees from committing an act of age discrimination on a third party, who might then sue.

**Telephone: 01483 302000
www.howell-jones.com**

Quality delivered as standard

We value you as a client and aim to deliver a first class service at all times. To help us achieve this we have compiled this list of service standards which we will endeavour to meet at all times.

- We will act with integrity, honesty and openness in everything we do for you and will respect absolutely the confidentiality of our working relationship.
- A specific member of our staff will be responsible for your work at all times and available to answer your queries whenever possible.
- A partner or consultant of this firm will have overall responsibility for your file and may be contacted should you have a query which cannot be satisfied by the member of staff handling your case.
- We will endeavour to deal with your communications promptly and courteously. We will strive to meet agreed deadlines, or advise you well in advance if there are reasons.
- We will seek to deal with your matter in the most cost effective way, whilst maintaining our commitment to quality.



Howell Jones News

The Manches Cup is now considered to be the leading sailing regatta for the legal sector, with teams participating from most of the leading law firms in the country. The Howell Jones team comprised Nicky Spurling, Penny Chick, Simi Kalsi, Elizabeth Leah, Linda Bell, Elsie Lyford, Nick Ball, Ollie Bourne, Chris Pomfret and a professional skipper provided with the boat by the organisers.



The first race was on Saturday morning in light winds with the team getting a cracking start, and leading the fleet over the finishing line to gain both line honours and a win on corrected time. The second race on the Saturday afternoon was abandoned when the wind died away to nothing and the fleet retired to Cowes for the evening fancy dress party.

Sunday morning dawned with sunny conditions and a strong easterly breeze. Again the team led the fleet away from the

start line and held their first place to the last mark of the course. With the wind dropping away again, the team were briefly held up by a boat in another division and dropped to third position. In an exciting race for the line and in second position, the team were then prevented from finishing by a spectator craft which got in the way. This enabled several following boats to finish first and the team crossed the line in fifth place. Their total score however placed them in second position overall out of a fleet of 20 yachts.

What could happen to your practice upon divorce?

A question often asked is what happens to the dental practice upon divorce? There are various options, although the extent of available options is reliant upon a number of factors:

- What sorts of practice is it i.e. are you a sole practitioner or in partnership etc?
- What are you proposing to do with the practice and is this achievable?
- What issues arise that have an impact on the matrimonial dispute in relation to the practice?
- What is the practice worth and what is each party's true interest in the practice?
- What impact any decision relating to the practice will have.
- A party has made a small or negligible contribution.
- A practice owning party can 'buy out' the other spouse's entitlement,
- Practice assets can be transferred between the spouses.
- The practice can be divided up in such a way that both parties can continue to treat patients and maintain their goodwill.

One should seek the advice of a family lawyer at the outset of the matter as to the various options available and even if agreement has been reached to ensure that the proposed resolution can be implemented. Howell Jones is able to assist in this regard.

Samantha Jago

Family Solicitor – Guildford Office
Howell Jones LLP

The main concern, often, is that the practice will have to be sold, however this should not be assumed. Example of cases where the sale of the practice might be inappropriate is:

- The small practice which produces the family income.

A specialised legal service - your introduction to our dental law team



Chris Pomfret heads the team and handles the sales and purchases of dental practices. He also has wide experience in dealing with commercial property transactions, in particular concerning dental premises.



Martyn Whiteman advises on acquisitions and disposals as well as practice arrangements. Martyn is a founder member of the Association of Specialist Providers to Dentists(ASPD).



Mark Waterfield is an experienced commercial lawyer with extensive expertise in advising on acquisitions and disposals generally.



Richard Brown is an experienced employment lawyer drafting and advising on associate and employment contacts.



Oliver Bourne is a trainee Solicitor dealing with sales, purchases and generally assisting in the dental team.

contact our specialists

we are here to help, email:

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Plan for planning

In the purchase of any dental practice it is important to consider the impact of planning legislation and whether the planning consents (if any) which have been obtained are sufficient to authorise the current use(s) of the various parts of the premises.



A dental practice falls under Use Class D1 of the Town and Country Planning (Use Classes) Order 1987. The Local Authority Search we carry out for you as purchaser will reveal whether or not any D1 permission exists and, if so, whether it covers the whole of the premises comprising the practice.

Sometimes there is no planning permission at all for dental purposes. In other cases, D1 permission may have been obtained many years ago, but since then the practice has expanded into new areas of the original building not covered by the permission. Alternatively there may be a breach of the condition(s) attaching to the permission.

Whatever the defect, there are various ways of remedying it. However, always bear in mind that certain time limits apply to planning breaches, after which the Council can no longer take enforcement action. We can advise you if we consider the breach to have become immune from enforcement through lapse of time.

Where the risk of enforcement does exist, you could apply for retrospective consent, although that is a time-consuming process and presupposes that there is a good chance of the application being successful, which is not always easy to assess. It would also have adverse consequences as regards the availability of insurance, if the application is unsuccessful.

The most efficient solution is often to purchase insurance to cover the defect. For a one-off premium at reasonable cost,

insurance companies can provide cover against the risk of enforcement. Policies are attractive in that they are frequently granted on a long-term basis and can provide cover for successors in title and mortgage lenders as well as the buyer himself.

Insurers will require solicitors to carry out certain additional legal groundwork before agreeing to issue a policy. We can undertake this work as part of our enhanced service to you.

We can therefore assist you at the planning stage in the following ways:

- Identify where a breach of planning has occurred
- Advise you where we consider that a breach may be immune from enforcement
- Recommend a suitable remedy, including insurance where appropriate.
- Provide details of a reputable insurer and undertake the work required to satisfy with the insurer's pre-conditions to issuing a policy
- Ensure that the policy is placed on risk at completion, providing you, and your mortgage lender, with peace of mind.

For assistance with planning and other property-related queries concerning the purchase or sale of a dental practice please **contact Mark Waterfield on 01483 302000.**

Dental Showcase
2 Oct - 4 Oct - Please come and meet the team on Stand A08

November Seminars on Buying a Practice - Surrey and London
Please call for more details



In particular we can help you with:

- Practice purchases
- Practice disposals
- Property matters
- Employment disputes
- Employment contracts
- Associate contracts
- Expense sharing agreements
- Retirement
- Dispute resolution
- Debt recovery
- Professional matters
- Mediation

If you have a colleague who would like a copy of the Howell Jones law bites newsletter please let us know. Email us on: post@howell-jones.com