



# Working hand in hand

John Hogan, from Leman Solicitors, offers vets a guide to the key legal aspects of partnership agreements and discusses how to manage a partnership

The vast majority of multi-vet practices in Ireland operate as partnerships. Whilst many vets know what a partnership should be, a large number of these practices are operating without written agreements of any nature between partners.

In many cases, this helps the business to operate for years, without any great problem. However, in other cases, the absence of an agreement can lead to festering resentment and the problems only really arise at crisis point, for example when someone is ill or decides to leave.

When dealing with partnerships, it is important to look at roles and responsibilities. Who is responsible for what in your practice? Is one partner carrying an unfair burden? Does everyone pull their weight on the administration side? A clearly-drawn partnership agreement should show how responsibilities are divided and should fairly reflect the money due to each partner. In some cases, an agreement may agree that a fixed amount be paid to the 'admin partner' or the 'managing partner'.

There are certain areas that partners should look at together, for example, how to deal with locum cover, maternity leave and temporary absence. A large number of vets do not carry income protection insurance. In large animal practices, it should be a condition of partnership that all partners carry this insurance, which will normally kick in after 13 weeks of illness. With the risks associated with large animal work there is a strong

chance of injury. Without this form of insurance, an injury could place great strain on a partnership when the cost of a locum is also taken into account. When dealing with maternity cover, a well-prepared agreement will make procedures clear and easy for everyone to deal with, therefore allowing for family planning and practice planning without resentment or awkwardness.



John Hogan, Leman Solicitors

## ON THE WAY OUT

As partners, or indeed, as sole practitioners, there are three options available when you want to retire:

- pass the business on to a family member;
- sell it; or,
- close it.

How do you go about selling your practice? If you prepare

an exit plan it should allow for first refusal options and a staged payment option. If a partner dies suddenly, can the surviving partners be expected to raise finance to foot their share? Cross-partner insurance policies are an ideal way to deal with this problem. This can provide security for your estate and avoids disputes when one partner leaves. The operation of these arrangements should be clearly dealt with in your partnership agreement to avoid upset.

### HOW DO I KNOW WHAT I AM GETTING?

Buying into a partnership or a practice can be very exciting, but you need to protect yourself. Always insist on a full indemnity from the selling partner for any claims against the practice. Do you know the business history? Is there a claim about to land on your desk? Is the practice properly insured?

All of these questions will have to be answered before you make your investment. A simple, due diligence questionnaire (investigating potential investment), will help to draw out the issues and make sure that everyone knows where they stand. A relationship can easily sour when issues are not disclosed up front and trust breaks down. The smallest issue can be blown up to seriously damage a relationship. Clear legal guidance on what you should look for can help to prevent accusations flying later on.

### WHAT HAPPENS IF IT GOES WRONG?

Without a written partnership agreement, if things go wrong it is quite likely that you are going to end up in court: most likely, the High Court, and the only winners there are the lawyers. A well-drafted partnership agreement allows for a range of dispute resolution options, from negotiation to mediation to arbitration. All can be simple, quick and discreet. The courts are a public forum and can be a very stressful environment especially in a country practice.

Your partnership agreement should include the following basic provisions, at a minimum:

- Capital division – who brings what to the partnership (assets, testing lists, cash);
- Drawings limits – how much and how often can you draw money out;
- Loans and advances – inward and outward;
- Meetings and information – quarterly reviews, division of responsibility;
- Holidays and absence – locum cover, key busy seasons, etc.;
- Insurance – to protect yourselves and the practice;
- Good faith;
- Retirement – timing, payment, management;
- Expulsion;

- Termination and disputes – how to solve problems quickly and easily; and,
- An exit plan.

You may want to add extras in relation to small animal surgery duties or ownership, locum cover, maternity cover etc. The simple fact is, that, without a written agreement, you are left with court as a sole solution if a problem arises. By using the dispute resolution tools of mediation and arbitration you can get expert assistance in resolving problems – a senior experienced vet could be the middle man you need – without any damaging publicity. Very few practitioners have an appetite for the High Court.

### MEDIATION: QUICK, SIMPLE AND COST EFFECTIVE

The most high-profile mediation case of recent years involved RTE broadcaster, Pat Kenny, and his neighbour, Gerry Charlton. After years of very damaging and costly litigation, in which neither party was willing to concede an inch, the case finally came before the High Court to be resolved. In High Court litigation there is always a winner and a loser. The stakes are very high, with legal costs running into the hundreds of thousands. The judge forced the parties into mediation and one of the most difficult high profile land disputes of recent years was solved. Nobody won, nobody lost. Both remain neighbours and the details of the deal were kept quiet.

In all businesses, difficulties can arise that involve cost from payment delays and tax problems to insurance claims, injury claims. The stress, time and expense of litigation can be easily avoided by using these new tools to resolve your problems. In a partnership situation mediation has the added benefit of helping to maintain the partners relationship and save the business.

One additional aspect to consider is timing. Without agreeing a strict timetable on delivery of certain items and a hearing plan, these disputes can drag on for years. This is most common in disputes following a practice sale, for example when an exiting partner is seeking payment of fees due. If you provide for this with a timetable in your agreement, you will avoid long delays and a bitter aftertaste upon retirement.

### AT THE END OF THE DAY, IT'S BUSINESS

Whether you wanted to be or not, all practising vets are business people. The single greatest problem that can cripple a business is a dispute. Whether it is with a colleague, a partner, a client or a supplier, the emotional and financial drain can be huge. A well-prepared and thought-out partnership agreement will go a long way towards avoiding problems that could cripple your business.