

## ASK THE EXPERTS

# Lease renewals and pension limits

**LEASE NEGOTIATION**  
 The 15-year lease on our surgery has recently expired and we are negotiating renewal with the landlords – both former partners. Associated costs are over £11,000: legal costs, £3,500; dilapidation survey, £1,150; stamp duty land tax (SDLT), £6,560; and land registration fee, £420.

Can you advise on the normal arrangement for apportionment of these fees? Should the landlords draw up the lease? Who should be responsible for external and internal maintenance of the premises? In relation to legal costs, both parties would normally pay their own fees and the lawyers concerned would normally confirm with the parties they were representing who would be responsible for their fees.

In addition, your lease may have a clause attending to who should pay legal costs.

On the matter of SDLT, I am afraid that is a tax payable by the tenants when taking out a lease.

In respect of dilapidations, there will almost certainly be a clause in your lease attending to this matter, and making you responsible for required works. Most leases would go on to note that the tenants should also pay all related and properly incurred solicitors' and surveyors' fees.

In normal lease renewals, it would be the landlord's solicitors that draw up the lease and present the tenant's solicitors with the draft. The tenant's solicitors would then be involved in negotiating any relevant clauses.

The NHS recommends that doctors take leases where they are responsible only for internal repair, but they do not stop leases where doctors carry full repairing liability. In the market, there are a number of both styles.

If matters ended up in court because parties could not agree, then the courts would follow the previous lease. Thus, if you have a 'full repairing lease', one would normally expect to renew on a similar basis.

*John Hearle*

**PENSION ALLOWANCE**  
 I retired as a GP principal on 10 April 2006 and took my NHS pension. I subsequently rejoined my practice part time.

I have received a letter from NHS Pensions revising my pension and informing me that I have exceeded the lifetime allowance (LTA). I have used 108.69 per cent of my LTA and hence my pension/lump sum has been reduced. I believe there is a way of staying within the LTA but I am not sure.

I also have a small personal pension paying £60 net per month. Can you advise? You can apply to HM Revenue & Customs for transitional protection before 5 April 2009 to try to mitigate – or even reduce – all of the excess LTA tax charge that will be applied to your NHS benefits.

To apply for protection you need 6 April 2006 (A-Day) valuations for both your NHS pension and personal pension.

If you do not have a valuation for the latter, I recommend that you contact the pension provider immediately and ask for a written A-Day valuation.

Given the 5 April 2009 deadline, I suggest that you also seek advice from your financial adviser immediately.

*Kevin Quinn*

### PLEASE NOTE

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