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## **CQC regulations cause the law to be broken – but only slightly**

A first-time buyer of a dental practice will be forced to practice illegally in the days or weeks after completion, warns specialist dental lawyer Russell Abrahams. This unfortunate consequence of the legislation governing the role of the Care Quality Commission (CQC) has been confirmed by the CQC itself.

Russell explains that since the CQC took over regulation of dental providers, it has become inevitable that first time purchasers will practice illegally. This is due to the time delay between the vendor of the practice ceasing their CQC registration and the buyer's registration coming into effect.

He explains that the new owner can't simply insert his name on the registration in place of the vendor's name. The purchaser must go through the application process, including an enhanced CRB check which must be counter-signed by the CQC. If, while waiting for their application to be processed, which could take up to 120 days, the dentist starts providing care to their patients, they are breaking the law.

Russell is the founding partner in Abrahams Dresden and a member of the National Association of Specialist Dental Accountants' Lawyers Group and he has been in dialogue with the CQC on behalf of NASDA colleagues.

He says that once you have been registered with the CQC, you can vary your registration. "Where the purchaser is an existing provider, the process is much simpler. The problem arises where the purchaser is a first-time buyer of a practice and is not already registered with CQC in respect of an existing regulated healthcare business."

Russell summarised the issue: "The root of the problem is that the vendor and the purchaser cannot simultaneously be registered in respect of the practice. Unless the gap can be reduced to a split-second, the law must be broken. And if the law is

broken, a criminal offence takes place. CQC does not have it within its gift to offer an amnesty against breaking the law.”

However, the CQC can choose to be pragmatic. Russell said he had been in discussion with the CQC and advised that the organisation will focus its resources on unregistered providers who present the highest risk to the public. Anne Palmer, the Commission’s legal manager confirmed: “CQC is most unlikely to direct limited resources to prosecute those providers who have made every attempt to comply with the law.”

His advice to first time buyers is to do as much of the process in advance as possible, including:

- preparing the CQC application form
- collating personal references, bank statements, CRB check (countersigned by CQC) and other papers
- formally applying to CQC to be registered in respect of the practice
- inviting the vendor to prepare to vary the conditions of their own CQC registration or to cancel it if this is his last location

Russell concluded: “The bottom line is that if the acquisition is planned, the registration can't quite be dovetailed, but it can be almost dovetailed. The law will still be broken, but only slightly!”

***Russell is a founding partner of the law firm Abrahams Dresden. He specialises in dento-legal related matters and is a member of the NASDA (National Association of Specialist Dental Accountants) Lawyers’ Group. To speak to Russell, call 020 7 251 3663 or to find a NASDA member in your area go to [www.nasda.org.uk](http://www.nasda.org.uk)***