

March 2021

## Team moves: Steps to protecting your business

As we start to emerge from the lockdown, it is predicted that businesses in certain sectors will be looking to bolster their offerings, by strengthening their business through the recruit of talented individuals. At the same time, individuals will be looking at employment opportunities and, if the right role arises, they may decide to move on.

Those looking to recruit often find an attractive proposition may rest with more than one individual. A team that has worked closely together and has a strong presence in the sector they work in could be an attractive prospect for a growing, ambitious business.

In turn, for individuals looking for new opportunities, going as a team can give them noticeable 'selling power' to prospective employers, due to the combined skill-set they can offer a business.

### **Should an employer be concerned about a team move?**

A team move arises where two or more individual employees decide collectively to leave their current employer to either set up a business in direct competition with their employer, or join one of their employer's competitors.

A team move can cause considerable damage to your business; more so than losing a single employee. The reason comes down to the combined skills the team of employees have and, more importantly, the combined relationships with customers and clients that they have. It is those relationships, in particular, that can cause the most damage to your business, based on a general presumption that clients and customers, with a strong relationship with your employees, are more likely to follow them wherever they go. This loss of clients and customers can have a noticeable financial impact on a business' bottomline.

### **Considering the impact a team move can bring, what can you do to protect your business?**

First of all if, as an employer, you suspect or know that a team move is about to occur – because notice of resignation has been given to you - you should firstly assess whether the employees have committed any acts which would be considered unlawful. Any unlawful acts will be determined by both express duties set out in the employees' contracts of employment, and also implied duties. You should:

- Act quickly. Hesitation can be costly to you and damage your chances of protecting your business
- Investigate what the employee's may have been doing over recent months
- Review each individual contract of employment
- Secure your confidential information
- Do not damage your own position; if you commit a breach it may render any covenants placed on the employee, as unenforceable
- Seek professional, legal advice and guidance

## Can you avoid team moves from happening?

Look at your employees and teams and identify who amongst them may post a greater risk to your business of removing and using confidential information belonging to you. Once identified, look at the restrictive covenants contained within their employment contracts, and consider whether they afford adequate protection for your business.

You should also look at the security surrounding your confidential information, which should include your having the ability to track when and how data is being accessed. This is particularly key, as your confidential information can be very powerful in the hands of a departing employee and a new employer.

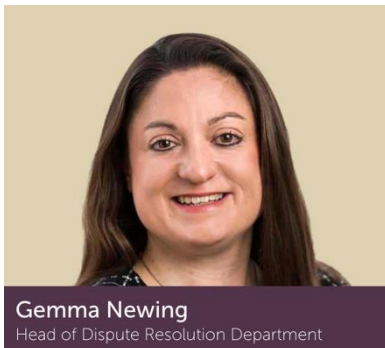
### In summary

While an employee moving on cannot be prevented, the possible damage they can cause to your business in making a move can be avoided.

The contract of employment you offer to new employees is the starting point to ensure you are giving yourself the maximum protection. Often this can be overlooked in the haste that sometimes arises in sourcing and onboarding new employees.

The contract of employment provides you with the means of protecting your business from the outset. You should prepare it with great care and consideration to the role the individual will be carrying out, and the type of confidential information belonging to you that they will have access to during the course of their employment.

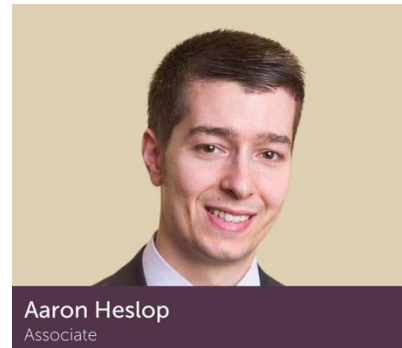
**For more information relating to departing employees and teams, or contractual agreements for new employees, please contact Gemma Newing or a member of the Rooks Rider Solicitors Dispute Resolution team.**



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