

Restrictive covenants: **top tips for employees**

Top tips for employees whose contracts contain restrictive covenants.

Review your contract

Ensure you understand the scope and application of any restrictions in your employment contract. They may affect the information you can share with a prospective employer and how you deal with clients or customers for a set period of time in the future. You may even be required to disclose a copy of the restrictions to your prospective employer.

Look out for possible breaches

If your employer has fundamentally breached your contract of employment (for example, by putting you on garden leave or paying you in lieu of notice without a contractual right to do so), the restrictive covenants may fall away.

Be mindful of your electronic communications

Information on work devices is likely to be the property of your employer and may be searched for evidence to assess whether restrictions have been breached. In the event that legal proceedings are initiated, the duty of disclosure extends to relevant information stored on personal devices (texts, emails etc).

Negotiate

If you are concerned that you are restricted from joining a prospective employer as a result of your covenants, see if you and your prospective employer can negotiate with your current employer to agree exit terms or reach a financial settlement.

Protect trade secrets

Certain very confidential information (i.e. trade secrets) will be protected after termination even if there is no express covenant. Ensure that you do not disclose any information which may be categorised as a trade secret with a prospective employer or use it to your advantage after your employment has ended.

Seek legal advice

If in doubt, speak to an Employment lawyer who will be able to advise you on the enforceability of your covenants, your legal obligations, and any options open to you.

For more information,
please contact:



Sinead
Casey

Partner, London
sinead.casey@linklaters.com



Jean
Lovett

Partner, London
jean.lovett@linklaters.com



Nicola
Rabson

Partner, London
nicola.rabson@linklaters.com