

Logbook

Name: [REDACTED]

Membership no: [REDACTED]

1. Competency: 6

Learning Outcome: 6.1

Apply rules of professional conduct appropriately to relevant situations.

2. Evidence provided:

Email to Mr [REDACTED] Managing Director of the Company.

3. Outline how the evidence demonstrates you meet the outcome

Identify most recent CILEx Code of Conduct and other rules:

I am aware that I need to comply with the CILEx Code of Conduct. As such I ensure that I have complied with Principal 3 relating to honesty and integrity within the enclosed piece of evidence.

How I act in accordance with the rules:

My client has asked that I send a restrictive covenant reminder letter to an ex-employee, however their contract does not contain the solicitation provisions to sufficiently protect the company. My client has requested that I send our standard contract to the ex-employee confirming that he is bound by the terms and should abide by the post-termination restrictions. As these are not the terms that the ex-employee entered into I am aware that I have a duty under Principal 3 of the CILEx Code of Conduct not to mislead anyone that I deal with and therefore I advised my client that I could not comply with his request as it would be fraudulent to do so.

4. Reflection and evaluation

I understand that it is essential to comply with the CILEx Code of Conduct whilst giving legal advice.

5. Completion date: 13th September 2013

6. Signed (applicant) [REDACTED]

Date: 13/09/2013

7. Signed (supervisor) [REDACTED]

Date: 18/09/2013

V [redacted]

From: V [redacted]
Sent: 30 August 2013 11:00
To: M [redacted]
Cc: J [redacted]
Subject: RE: Review of Restrictive Covenant:
Attachments: [redacted].doc

I agree that unfortunately this contract has errors and that we need to review other contracts therefore could you please provide J [redacted] with a list of those employees within your remit that we would require the protection of covenants. [redacted] once you have this list could you please pull together all of the contracts and provide me with copies so that I can review all of the covenants in each. This seems like a tedious task but is important given the current risk to the H [redacted] client book therefore please consider this as a priority - many thanks both.

I am happy to send [redacted] a general covenant letter and have therefore drafted the attached letter confirming that he is restricted from dealing or soliciting any clients for a period of twelve months. I have not made specific mention of the prospective clients as our argument would be that prospective clients would include existing clients as they would be classified as prospective clients up to renewal (however I am unsure as to how strong this argument would stand).

I am not intending to enclose a copy of [redacted]'s contract with his letter given that it will give him and [redacted] the opportunity to review the covenants and bring the weaknesses to their attention. However, I can not send him a copy of the standard contract as he did not sign up to the terms of this agreement and to enclose this would be misleading and fraudulent.

Could you please let me know if the letter is in agreed form and I shall send out?

Kind regards,

V [redacted]

[redacted]

[redacted]

From: M [redacted]
Sent: 23 August 2013 17:42
To: V [redacted]; J [redacted]
Subject: RE: Review of Restrictive Covenant:

It would appear that the contract wording he had was poor and had glaring errors. Coincidentally it was only signed by him. Are we sure this is the only one we had for him? We may need to check others now to ensure they have the correct covenants. I suggest we write to him in respect of the Standard Covenants that will have been in his contract (Step 2) and possibly just send him the standard contract document that would have been used (a correct one).

Please let us see anything before it is sent, in any event he is still here working for the next few weeks

[redacted]

[redacted]

[Redacted]

[Redacted]

From: V [Redacted]
Sent: 22 August 2013 10:27
To: M [Redacted]
Cc: J [Redacted]; M [Redacted]
Subject: RE: Review of Restrictive Covenant: [Redacted]

M [Redacted]

I have now reviewed [Redacted]'s restrictive covenants within his employment contract and unfortunately the wording does not protect our current clients, but only those prospective clients. I can only assume that this wording within the agreement had been deleted by mistake as this is not our standard precedent wording.

In [Redacted]'s recent offer letter he was promoted to Account Executive and was entitled to be part of the Account Executive Bonus Scheme. J [Redacted] - could you please confirm whether we produced any subsequent bonus wording for [Redacted]. Although unlikely to contain restrictive covenant's it is worth checking.

Summary of Covenants

Under the current contract I can confirm that we have protection for the following circumstances:

- a. Confidentiality - [Redacted] must not disclose any trade secrets or retain any company documentation, including but not limited to client lists.
- b. The covenants state that [Redacted] must not, for a period of twelve months following termination, approach, canvass, solicit or deal with any prospective client of the Business that he had material dealings with in the last 12 months leading up to his termination.
- c. Clause 18.5.1 also prevents [Redacted] from soliciting any "Key Employ" (this is where the deletion began I presume as the 'ee' is missing) of our Business.

Next Steps

I would recommend that we have the following options available to us:

- 1) Write to [Redacted] solely in relation to confidential information;
- 2) Write to [Redacted] reminding him of his post-termination obligations in respect of clients. Please note that we will use the general terminology of client but will expect resistance on this approach; or
- 3) Obtain counsel's opinion on [Redacted]'s covenants and/or all [Redacted] related breaches. Please note it is likely that counsel will have the same finding as me due to the lack of evidence.

I look forward to hearing from you further on this matter.

Kind regards,

V [Redacted]

[Redacted]

[Redacted]

From: J [Redacted]
Sent: 20 August 2013 11:56
To: Group Legal Department
Cc: M [Redacted]
Subject: Review of Restrictive Covenant: [Redacted]

Morning

-has submitted his resignation and the business has requested a review of his restrictive covenant to ensure it protects the business's current clients that i deals with rather than prospective clients.

Please can you advise whether the covenant in place is substantial in respect of the clients managed by

Kind Regards

[Redacted signature block]