

KEEPING IN TOUCH

THE NEWSLETTER OF RICHARD GROGAN & ASSOCIATES SOLICITORS

Contracts for Senior Employees

When putting in place a contract for a senior employee the issue of that employee leaving or being required by the organisation to leave will not be at the top of the mind of the employer taking on the new employee. They will want to see it in a positive way. However there are realities of life that at certain stages an employer may want to dispense with the services of a particular employee.

For this reason it is important to have Garden Leave Clauses. Such a clause in a contract of employment will enable an employer to require an employee not to attend work and to only carry out very limited tasks during this period of Garden Leave. Employees continue to be paid during the Garden Leave and remain bound by his or her contract of employment and the duty of trust in confidence during that period. A Garden Leave Clause enables protection to an employer where the employee may be leaving to set up their own business or to take up employment with a competitor. By placing an employee on Garden Leave the employer can effectively stop and reduce the risk of an employee using information, such as a new job or to set up on their own. The reason for this is that Garden Leave provisions will provide that the employee will not during the period of Garden Leave be involved in any other business.

It is possible to include a Garden Leave Clause in any contract of employment to cover a situation where an employee is going. It can be at the election of the employer. We would always advise to put in place or to activate a Garden Leave Clause the employer must furnish notice of termination of the employment. While the employee is on Garden Leave they continue as if they are at work but just not at work. By this we mean that periods of Garden Leave cannot be used towards holidays and while an employee is on Garden Leave they will continue to accrue holiday entitlements. Placing an employee on Garden Leave can be used as a period of notice for any requirement to pay notice either statutory or as per their contract.