

Senior Executives and the Employment Law issues affecting them.

There are many employment law issues which relate specifically to senior executives. These include bonuses, restrictive covenants, onerous clauses in your contract of employment or service agreement, notice periods, settlement agreement terms, stocks and shares, references and particularly in the financial services area these are extremely important, and increasingly whistle blowing.

The breakdown of an employment relationship and problems at work can be stressful especially for a Director of senior executive who invests significant time and emotion into their working life. Difficulties may arise as a result of a restructure, a change in duties and responsibilities, discrimination, bullying and harassment, disciplinary issues or grievances. For Senior Executives finding an amicable resolution to workplace problems taking into account reputation and financial considerations is a very important fact which we recognise and take into account.

If it is not possible to resolve matters in an amicable way it can be necessary for proceedings to issue.

Our approach in dealing with cases where proceedings have to issue is that we always offer mediation at the very start. There is good reason for this. If a matter goes to Court the Court itself will look to see was mediation looked for and sought. Our experience is that where mediation is offered at an early stage and that that offer is taken up by the employer it is possible then to obtain a mediated agreement.

The great advantage of mediation is that it is confidential. We know that the word “confidential” is thrown around quite a lot and that in Ireland there is a view that nothing is confidential. However our experience is that that with a properly accredited mediator appointed with the parties being legally represented that the issue of confidentiality is to the forefront. The mediation document to actually go to mediation will indicate that everything at mediation will be confidential and the parties sign up to same.

For a senior executive the issue of their reputation will be paramount. However, we recognise that the issue of the reputation of the firm or company they work with is equally of paramount importance to them. For them the ability to attract and retain senior executive can be such

that it helps getting to a negotiated settlement because the reputational risk for the employer company or firm is actually significantly greater than it is for the senior executive.

The issue which we are finding at the present time is that some solicitors will act for both employers and employees. Of course there will be checks made so that there is no conflict of interest. However, our approach is that we will only act for employees in such circumstances. The reason being is that it ensures that there can never be a conflict of interest. It also ensures that whatever arguments or legal points that we would raise on behalf of the senior executive is not one that we would be worried about raising for fear that it could have a negative impact on a commercial client in a similar type of case.

Our approach is that you either act solely for companies or firms or for senior executives and Directors. That is simply our approach. Others may not agree with it but it is the approach we have taken and therefore we decided that our approach would only be to act for senior executives or Directors in such cases.

Currently we envisage that due to Covid-19 it is being used as an opportunity to dispense with the services of senior executives and Directors.

We expect to see more of these types of cases arising in the next twelve months but we certainly are in a position to support and advice any individual in this situation where their job is at risk in a way which is supportive but at the same time realistic.

Our approach is always that we will discuss relevant issues with you; we will decide with you what course of action to take. We will explain the risks and the benefits. We will not take on a case unless we believe that it is a case where we can add value.

While we will be supportive you will find that we are a straight talking firm. We will tell you what it is whether it is advice you want to receive or not. Our approach is to give you the advice that we believe you need to hear rather than the advice you want to hear. If we do not believe that you have a good case or that we cannot assist you we will tell you so upfront. If we do believe that you have a case we can assist you on and can add value to you then equally we will be very clear and tell you so.

If you require further information please phone us on 01 – 9695781 or e-mail us at info@grogansolicitors.ie. For further information you will find guides on our website www.grogansolicitors.ie.

***Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

****In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**