MERAKI HR

Who owns an employee's LinkedIn contacts?

Who owns an employee's LinkedIn contacts

Who owns an employee's LinkedIn contacts if they were created as a result of their employment?

Is it the employer or the employee?

LinkedIn contacts are key for many employers, as they may use LinkedIn to generate new business contacts. Departing employees could use the LinkedIn contacts that they created during their employment for their own, or a competitors' benefit. So many employers will want their employment contractual terms and procedures to protect their business and its intellectual property.

Many businesses will include standard confidentiality provisions, which will prohibit the use of confidential information belonging to the company. They may also have terms which specifically mention the fact that client lists can't be used/downloaded etc. There may also be restrictive covenants that prohibit soliciting clients, including prospective clients.

However, LinkedIn contacts raise problems.

Standard form confidentiality and restrictive covenant clauses do not address the fact that an employee's LinkedIn contacts may not be confidential because other people can view an employee's LinkedIn contacts – they are in the public domain, so employees may argue that they own their LinkedIn contacts, and that their employer therefore has no right of access to their account.

This is on the basis that an employee's account includes personal contacts that predate their employment with your business and also their friends who are not business contacts. Also, the LinkedIn user agreement is between an individual and LinkedIn, not between the individual's employer and LinkedIn.

So, this means that LinkedIn operates in a way that makes restrictive contractual confidentiality clauses or restrictive covenants difficult to enforce. When an employee moves to a competitor, they update their LinkedIn details to tell the business world that they have moved on.

However, this is not a targeted request to do business with your clients or prospects that would amount to a breach of a normal non-solicitation clause.

Here's some best practice advice to employers who are concerned about protecting LinkedIn contacts created as a result of their employment;

- Create a Dedicated LinkedIn account – Employees should use a dedicated LinkedIn account during their employment. Employees only use this account for the company's purposes. Thus, both employer and employee agree that all contacts and connections belong to the company.

- Employers' contact database – Create a database or ensure that contacts created on LinkedIn are copied to your CRM system.

- Right of access – Employees sign agreements giving you the right of access or password control on the separate LinkedIn Account. This allows you to gain control of the employees LinkedIn account if/ when the employee leaves.

- Actions on departure – When an employee leaves you, ensure that you see them delete their LinkedIn business account that belongs to you.

- Update your restrictive covenants – to specifically include references to social media accounts. The covenants will need to explicitly state that soliciting clients and contacts from their social media accounts is prohibited.

MERAKI HR

North Office: 01539 482709
South Office: 01865 648548

hello@merakihr.com

www.merakihr.com