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Features

**Make sure your new deal is not a raw one**

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Pay attention when negotiating a contract for a job. If you don't, you could regret it when you quit, writes Sandra O'Connell

THERE IS probably no good time to tell the boss that you are leaving to work for a rival. Still, you don't expect it to turn into a public tug-of-war. This is just what happened to Claire Byrne, TV3's glamorous news presenter, when she said she was joining Newstalk, the

Dublin radio station that is about to go national.

Newstalk signed up Byrne for its breakfast show, but TV3 has said it may be months before she can leave if she has to work out her contract.

The key to avoiding such a furore is to make sure you know what you are getting into when you take a job. The way to do this is to pay attention to the contract of employment.

"Some companies, in particular US multinationals, can insert non-compete clauses for up to two years. If you are a career banker, for example, it basically means you will be out of work for that period," said Mark O'Donnell, head of executive selection at Deloitte.

To prevent this happening, candidates need to be alert at the contract negotiation stage.

Areas that can trip up executives are unduly long probation periods or, where the business depends on intellectual property, excessive clauses relating to confidentiality, the sharing of information or taking material off the premises.

Those who are not fully aware of what they are signing could find themselves in breach of contract. "It's so important to read the fine print carefully," he said.

The issue of gardening leave, which precludes the individual from working with a competitor for a specified period, can be particularly thorny.

"Six months is typical in a contract, particularly in competitive sectors such as banking or telecoms," said O'Donnell. "If the relationship is good, this can be reduced to three."

When negotiating the terms of employment, ensure everything agreed is accurately reflected in the contract.

"Make sure to get your job spec attached to your contract, and that everything to do with your bonus is referred to in the contract," O'Donnell said.

Bonus commitments tend to be notoriously vague. "If a percentage of your bonus is to relate to personal performance, make sure exactly what that performance is, and how it is to be measured is specified in the contract," he said.

"Equally, if part of your bonus depends on company performance, ensure the contract specifies whether this relates to performance before tax, after tax or turnover."

One way to avoid tripwires

is to have a solicitor read the contract for a fee. Alternatively, companies such as Deloitte provide such a service to clients for free.

O'Donnell says many people are not quite sure what salary to ask for. "Candidates find it hard to establish if what they are being offered is fair, equitable and benchmarked," he said.

Salary surveys, such as Mercer's guide to executive compensation, can help, but don't forget to take into account other benefits.

"Too often executives focus only on salary at the negotiation stage," said Velma Roberts, the executive compensation information manager Europe at

Mercer. "Yet companies look at candidates in terms of total remuneration, so candidates should do the same."

She also warns executives to pay attention to bonuses. "Don't look just at the target bonus, but at the maximum bonus," said Roberts. "If you move from a company with a high maximum bonus to one with a much lower one, that will make a significant difference. Yet it is often overlooked."

Consider the long-term incentive plans, too. "Not only is there a value in this for you, but if you are moving from a company with a valuable long-term incentive scheme, there will be a cost in doing so. You have to factor this in."

Other issues to bear in mind when negotiating are the

company's circumstances and operating environment.

"If your bonus is linked to company performance, the fact that it has just undertaken an acquisition or been restructured might mean there will be slower predicted growth, so you need to find out how this will impact on your bonus," she said.

You must also consider your pension. "It's hugely important, particularly if the executive is older, to clarify exactly what kind of scheme you are going into and what the defined benefit or the employer's contribution will be," said Roberts.

It isn't all about money, either. "A lot of people move jobs for specific career progression purposes. If you are interviewing for the top management team, and the chief executive is nearing 65, you need to establish your likely future path at the company and what its succession planning policy is," she said.

Once you have established what you require from a career move, don't be afraid to make demands, says Martin Horan, an independent negotiation trainer. "The organisation may have greater expertise and HR resources behind it, but the strongest hand in employment contract negotiations is the candidate's," he said.

"Once the company has made the offer, the ball is in

the candidate's court and the individual has to look at the situation from that perspective."

To succeed, he or she must be clear on their "bottom line", he said. The problem is that executives are often too focused entirely on salary.

"You have to factor in other things, such as how much you need this, how unhappy you are where you are and what opportunities this job will open up for you. The package is only one element," said Horan.

Those taking the step up to director level need to make sure issues relating to professional indemnity or possible conflicts of interest are clarified.

"There are enormous responsibilities attached to being a company director and the individual must be fully aware of those before taking on the position," said **Colleen Cleary**,

partner at Landwell Solicitors.

"Also, if the individual is jumping ship from a very high-paying job, he or she should

factor in some form of termination payment agreement, possibly equal to two years' salary, in case things don't work out

in the first six or 12 months," she said.

"If you have outside interests that you want to pursue, make sure you get that clarified at the negotiation stage, too."

As always in business, timing is everything. "This is the most powerful time from the executive's perspective, so it's worth going through that contract in detail and getting as much as you can," said Cleary.

"At that stage of the game, the employer will pay a premium to get you. After

that, you have to take your seat like everybody else."

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