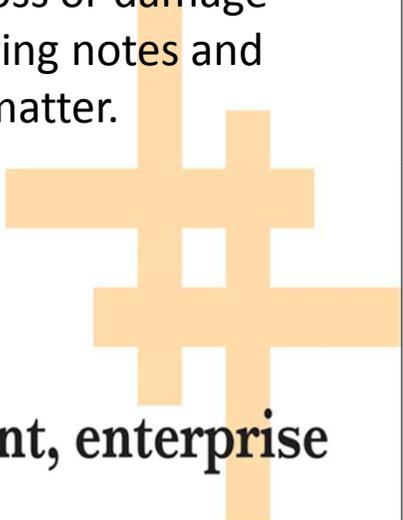

Notice

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Spirit, talent, enterprise

Restrictive covenants

Richard Wrigley and Michael Hibbs
Birmingham – 7 June 2016

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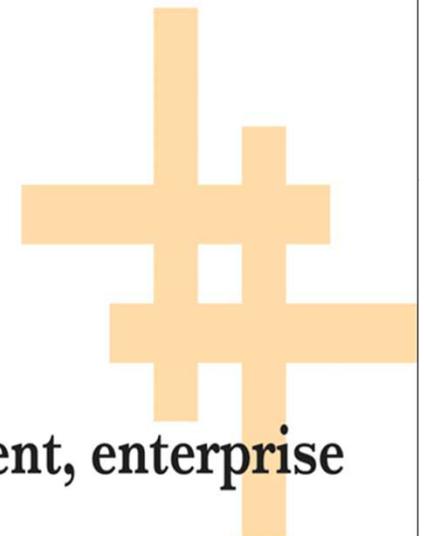
Welcome and introduction

Ian Harris

Birmingham
Insurance Institute



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Michael Hibbs - Partner

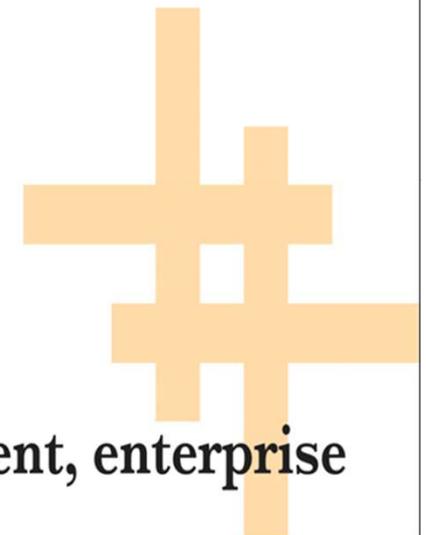
Head of Employment & Education

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Introduction

- # Garden leave
- # Post-termination restrictions (PTRs)
- # Confidentiality
- # Fundamental breach of contract
- # Keep restrictions up to date



Garden leave

- # What is garden leave?
- # What if employee seeks to leave early?
- # Protecting employer's legitimate interest
- # Duration
- # Relationship with PTRs

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Post-termination restrictions

- # Enforceability
- # Legitimate interest
- # Goes no further than necessary

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Post-termination restrictions

- # Non-solicitation

- # Contacting customers/clients

- # Compare to non-dealing

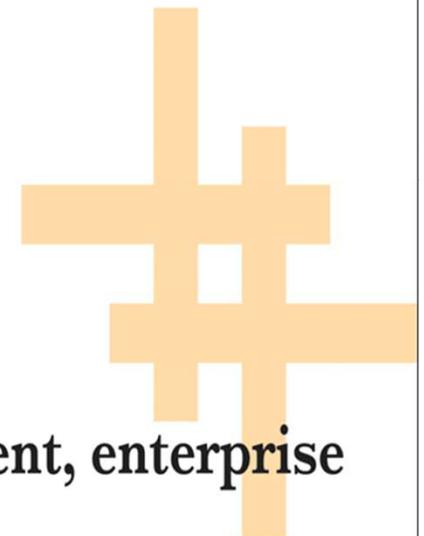
- # *Taylor Stuart and Co v Croft*

- # *Romero Insurance Brokers Ltd v Templeton and another*

Post-termination restrictions

- # Non-dealing
- # Doesn't require active steps by ex-employee
- # Easier to prove
- # Harder to enforce

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Post-termination restrictions

Non-poaching

Hanover Insurance Brokers

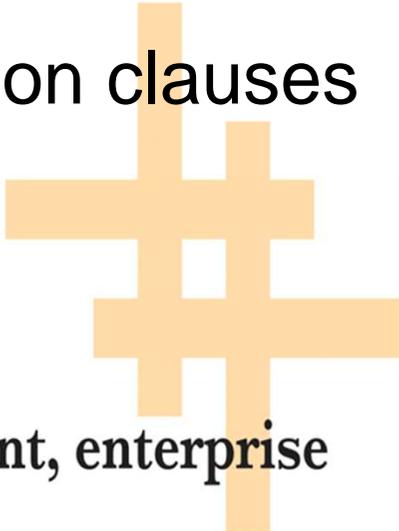
Ingham v ABC Contract Services Ltd

“a legitimate interest in maintaining a stable workforce in what is acknowledged to be a highly competitive business”

Post-termination restrictions

- # Non-competition
- # Geographical restrictions
- # Duration
- # Examples of enforceable non-competition clauses
- # Government Call for Evidence

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Confidential information

Trade secrets

Confidential information

Skills and knowledge

Public information

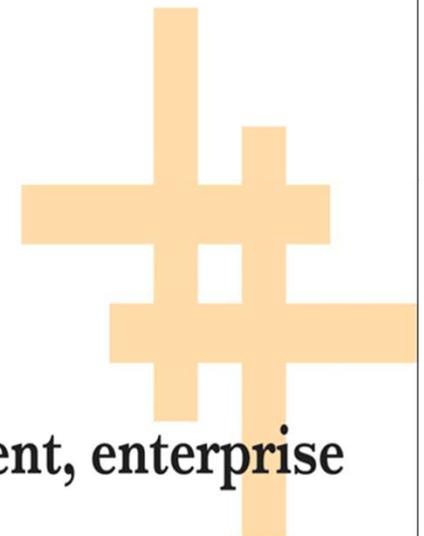
*QBE Management Services (UK) Ltd v Dymoke
and others*

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Post-termination restrictions

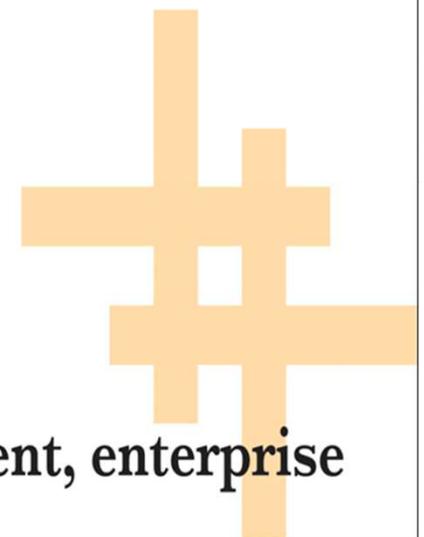
- # Fundamental breach of contract
- # Keep covenants updated
- # *Bartholomews Agri Food v Thornton*





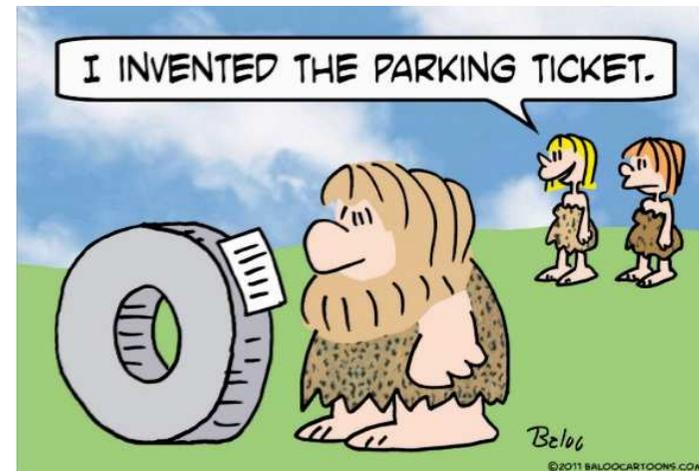
Richard Wrigley - Partner
Head of Corporate Group

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Penalties

- # Compensation & Deterrence
- # Legitimate interests



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New Test & Restrictive Covenants

- # Makdessi
- # Primary obligations
- # In practice?

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Questions



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Who are we?



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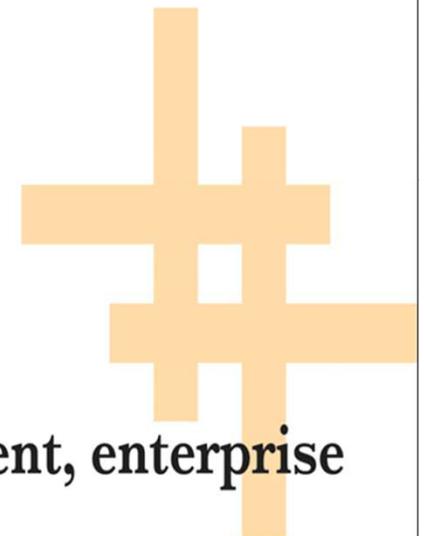
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