

New Employee

The dilemma

You work in the Investment Banking arm of a large group which has recently recruited a number of staff, including those with "approved person" status. You have just learned from a contact in the Private Banking arm of your group that one of these newly recruited 'approved persons,' was known to them as having been involved in an unsatisfactory incident several years previously. You are told that, that some five years earlier, your new employee, (Smith) who at the time ran a family investment trust, was a counter party involved in an investigation by your private bank into what appeared to be off-market trades, which were always executed to the benefit of the counter party.

The investigation was never satisfactorily concluded and a number of unanswered questions remained, primarily as a consequence of the counter party not cooperating with the investigation on the grounds that as it was a trust, it was not obliged to make disclosures.

Smith failed to discuss any of the above in any interview or personal history form, which he completed on joining, but he is meeting all of the high financial expectations of him, when he was hired. What would you do?

Weighing the response

This is a fundamental question of trust & integrity. The way in which any firm responds to this type of situation may be regarded as setting the tone for its general business approach. It is appropriate in this instance to quote the FSA who say.

"the culture of an organisation is a key mitigating tool for the proper management of conflicts of interest. Culture is a combination of both formal structures and procedures (such as HR policies on compensation, appraisals, discipline and training and IT support tools for this) and informal structures, including the values and ethics promoted by the organization, and staff behaviours-for example, what is considered generally acceptable behaviour by the staff in the firm."

Given what you now know about Smith and the FSA's view of the importance of a firm's culture, consideration must be given to the implications of continuing his employment, without further enquiry.

Considerations might be: -

- Would your executive be happy to be associated with this person?
- Would you be prepared to support him?
- What might be the impact on colleagues who become aware of past events?
- Why did Smith not divulge them himself?
- Does Smith meet the Fit and Proper test for Approved Persons
- Is Smith really the type of person you want to employ given his apparent past behaviour?

A suggested way forward

In the circumstances given to you surrounding your firm's past involvement with Smith, it seems improbable that he would have been found acceptable to senior management had they been aware of all of the facts. In an age when obtaining references beyond the straightforward confirmation of employment, is increasingly difficult, the information that candidates themselves are required to provide, must be beyond question.

Additionally, this case serves to highlight the tensions that may arise between the hiring department and HR department when recruiting and it is important that sound procedures are in place to provide the maximum degree of reassurance when recruiting. Hiring departments may wish to employ people they see as valuable to the business, almost regardless and, in such circumstances it would be sensible if neither department was the final arbiter, against the wishes of the other.

As for a decision in this specific case, Smith, having failed to declare what, by almost any standard, must be seen as material information, appears to be lacking in integrity and must be subject to further investigation. On the surface, Smith does appear to have difficulty in meeting the Fit and Proper test for Approved Persons, which undermines the reason for employing him in the first place. There appear good grounds for terminating his employment immediately.