



Do non-competes restrict innovation?

The Government has launched a call for evidence into whether non-compete clauses act as a barrier to employment, innovation and entrepreneurship.

Non-compete clauses are usually designed to prevent an employee with significant client relationships or access to confidential information from working in a competing business for a period of several months after they have left their original employer.

Whilst the starting point is that such clauses are unenforceable unless it can be shown that the clause in question protects a legitimate business interest and is reasonable, the costs of fighting litigation in the high court can be very significant and may in itself prove a deterrent to a small business employing an individual who has such a contractual restriction.

As a result, the Government's call for evidence is seeking views from individuals and employers as to whether such clauses do hinder start ups from hiring the brightest and best talent and whether changes should be made to the law to limit their effect. Outside of the UK, different countries take very different approaches to such clauses from completely outlawing them to placing formal restraints on their operation. It will therefore be interesting to see whether opinion is in favour of change in this area.

The call for evidence is open until 22 May 2016.