

Government announces new consultation on restrictive covenants

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Employment Law News

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Government announces new consultation on restrictive covenants

Does the current law on non-compete clauses stifle the creation of start-ups? And should the law be changed?

These are questions the government will likely seek answers to

as part of a new consultation on post-termination obligations in employment contracts which, the [FT reports](#), will be launched in the coming days. Apparently ministers are keen to make it harder for employers to stop their employees leaving and setting up in competition, in a bid to make the UK more attractive to EU entrepreneurs after Brexit.

The FT reports that the approach taken to such clauses in California – where they are essentially unenforceable – is one of the reasons given by entrepreneurs for the rapid growth of the technology sector in Silicon Valley. However, this may also be one of the reasons that tech giants such as Apple and Google [faced a class action lawsuit](#) from 64,000 employees in relation to an alleged nonpoaching conspiracy between those companies. A \$415million settlement was agreed in that case.

This is not the first time the government has looked at this issue in recent years. In May 2016 BEIS launched a call for evidence in relation to the use of non-compete clauses. At that time ministers were influenced by [a report published by the US Department of the Treasury](#) which analysed the economic effects of non-compete clauses and made the case for their reform. Unsurprisingly, the responses to that consultation were fairly polarised with established businesses favouring the current law but new ones looking for more flexibility. The issue was shelved by the government at that time and no proposals for reform were put forward.

As recognised experts in the field of employee competition, BDBF will be providing input into the consultation. If you would like us to include your views too, then please contact [Tom McLaughlin](#) who specialises in this area.

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