

Restrictive Covenants: FAQ from employees



We are often asked for advice on restrictive covenants by executives and senior employees and how these can impact a future job you have already accepted or are considering. Here we answer some of the top questions on this topic.

Can my employer stop me starting my new job?

Not unless you have accepted a restriction on what you do next that is “no wider than necessary to protect their legitimate business interests”. The starting point for any restriction on you earning your living is that they are void unless your employer can get within this narrow test. The first step is to obtain a copy of and carefully review the contract, deeds of adherence and confidentiality agreements you’ve received, what you’ve already accepted and look at the wording of each part that is trying to limit your next move.

My employer has written me a letter asking me to agree not to work for a competitor – what should I do?

This is the usual first step where they ask you to agree to a number of “undertakings” (obligations). The obligations they want from you will include that you will comply with the obligations you have in your employment contract (which might include that you won’t take up your new role). They may add that you will return all company property and won’t use any confidential information. Whether you want to sign that letter will depend on whether you can stick to what they are asking. If not, you shouldn’t sign up to them.

What can my employer do to stop me working for a competitor?

If they know you plan to join a competitor, they will usually write to your new employer when they write to you and make them aware of the restrictions in your contract. They can accuse the new company of “inducing” you to breach your restrictions by allowing you to start work for them or working for certain clients. You can head off any embarrassing conversations by providing a copy of your contract to your new employer before you start.

Your current employer can’t force the new business to retract their employment offer. In extreme cases, where you would cause real damage to them by working somewhere else and the restrictions are narrow enough to be enforceable, they can ask a Court to hold you to your restrictions. This can include stopping you working, restraining you from talking to clients, stopping you from hiring certain employees or preventing you from using confidential information. This kind of application (for an injunction) is expensive so it is a last resort and can often be avoided by negotiating your exit arrangements.

Any other advice?

Yes, I have two top tips. First, don’t take any information or property from your employer. Transferring client lists or business plans from your work to your personal email address is not only going to get flagged by IT, but it will give your employer reason to believe you are going to damage them. Second, be smart about what you put in writing. If your employer can show good reason, the court can order you to provide copies of your social media accounts, private phone records and copies of (private) messages.

Contact us

If you have further questions on restrictive covenants or need other employment law advice, please contact [Melanie Stancliffe](#), partner in the employment law team.



[Melanie Stancliffe](#)

Partner