



## BEIS Consultation on Confidentiality Clauses Institute for Family Business Response

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### About the Institute for Family Business

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The Institute for Family Business (IFB) is the UK's family business organisation, supporting and promoting the UK family-owned business sector through representation, thought leadership, analysis, events and networking.

We work closely with family firms to support them in growing enterprises for generations to come. A central part of our work is to provide educational resources and knowledge-sharing designed to support business owners and those who work in family business. We champion best practice within the family business community and help others to learn from these examples.

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### About Family Business

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Family business is the backbone of our economy, and the bedrock of our communities. In the UK, family firms generate a quarter of GDP and employ over twelve million people. By their very nature family businesses take a long term view, building on long-term stewardship of people and resources. Their commitment to passing a healthy business on to the next generation is locked into their corporate DNA.

The family business sector is extremely diverse. Family businesses come in all sizes and are found in all industries and communities across the UK. Whilst the majority of family firms are small or micro businesses, there are around 17,000 medium and large firms. The tax contribution of family businesses now stands at £149 billion – more than the annual NHS budget.

The UK family business sector continues to grow. In the UK there are 1 million more family businesses than in 2010, and family businesses have created an additional 2.3 million jobs. Family firms now turn over £1.4 trillion annually, up 7.2 per cent since 2010 - family business turnover has grown by more than that of non-family businesses since 2010<sup>1</sup>.

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### Purpose of Confidentiality Clauses

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We support efforts to address the misuse of confidentiality clauses to intimidate victims of harassment. We are also pleased to see that the consultation recognises that there are other legitimate business reasons for using confidentiality clauses.

In preparing this response we spoke to family business owners and managers about the ways in which their firms use confidentiality clauses. The information given in this response is designed to provide further information on how these clauses are used by family firms, as part of their legitimate business activities.

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<sup>1</sup> State of the Nation: The UK Family Business Sector 2017/18, Oxford Economics for the IFB Research Foundation



The businesses we spoke to told us they used non-disclosure agreements for two reasons. The first in relation to customers and/or suppliers when developing new products, services or processes. The second in relation to settlement agreements.

In relation to employment contracts and settlement agreements, businesses spoke about the need to protect intellectual property and commercially confidential information, particularly given the modern employment environment where people tend to move between companies more frequently than was previously the case.

In family businesses, or family offices, employees often have access to information about the extended owning family, which may include vulnerable family members and minors. This can include information that would put the security and safety of these individuals at risk if it were to be made public.

It's essential that families are still able to ensure that the privacy and security of family members is not undermined by removing the ability to include confidentiality clauses when employees leave.

Businesses we spoke to who did enter into non-disclosure agreements spoke about the importance of current and former employees taking independent legal advice before signing agreements. Businesses also cited guidance from bodies, such as the Law Society, which advises including information in settlement agreements to make clear that agreements don't affect employment rights, reporting to police, etc.

We support measures to prevent the misuse of confidentiality clauses. However, the government must be mindful of the impact further changes could have on legitimate business use.

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