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Non-disclosure agreements

Using non-disclosure agreements

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An employer might use a non-disclosure agreement (NDA) to stop a worker sharing information.

A non-disclosure agreement can also be known as a 'confidentiality clause'.

It's a written agreement and could be:

- in an employment contract
- in a conciliation agreement (COT3) – written up when an agreement is reached through conciliation
- in a settlement agreement
- in a separate, stand-alone document

When a non-disclosure agreement might be used

A non-disclosure agreement might be used during someone's job or after a job ends.

For example, a non-disclosure agreement might be used:

- when someone starts a new job, to protect a company's confidential information
- after a dispute which results in someone leaving a job, to keep details confidential

Using a non-disclosure agreement as part of a settlement agreement

An employer and worker might use a [settlement agreement](#) to resolve a dispute at work.

In some cases, employers might also ask a worker to sign a non-disclosure agreement to keep certain things about the settlement agreement confidential.

Keeping the details of a settlement agreement confidential

A non-disclosure agreement might be used if the employer or the worker wants to keep confidential:

- the sum of money agreed in a settlement agreement
- some or all of the other settlement terms
- some or all of the circumstances leading to the settlement agreement

This does not stop the employer or the worker from telling others that a settlement agreement has been made.

Keeping the fact a settlement agreement has been made confidential

This is when the employer or the worker wants to keep confidential that a settlement agreement has been made.

This might be when only certain people know about the settlement agreement and they do not want others to know.

Other reasons for using a non-disclosure agreement

Non-disclosure agreements might also be used:

- to keep an organisation's information confidential
- when an employer needs to protect customer or client identities, intellectual property or other sensitive or important business information
- to keep certain things the worker knows about the organisation confidential
- to stop someone making critical or insulting comments – for example about the employer or worker, specific people in the organisation, the service that an employer provides, or their customers and clients
- to help protect someone if the details of a dispute or dismissal became widely known

For example, a new worker joins a tech company. They're asked to consider and agree to a non-disclosure agreement that stops them giving company information to competitors.

When an employer cannot enforce an agreement

A non-disclosure agreement cannot stop anybody:

- [whistleblowing](#)
- discussing their pay with anyone at work for reasons relating to [equal pay](#)
- reporting a crime to the police
- [sharing information about a crime](#) to get advice and support if they are a victim of crime in England or Wales

From 1 August 2025 employers in higher education in England cannot use a non-disclosure agreement to stop workers disclosing:

- sexual misconduct, abuse or harassment
- other bullying or harassment

When a non-disclosure agreement would still be enforceable

If there's a non-disclosure agreement in place, it might still be enforceable for other reasons.

Example of when a non-disclosure agreement would still be enforceable

A worker raises concerns over their organisation's emissions data. They've already signed a non-disclosure agreement which says they:

- cannot report the organisation's emissions data to anyone
- cannot sell the organisation's data to competitors

Even though they've signed the agreement, there's nothing the employer can do by law to stop the worker from whistleblowing.

However, the worker then sells the organisation's data to a competitor. The

employer could now claim that the worker has breached the agreement.

Discrimination, harassment and sexual harassment

A non-disclosure agreement should not be used to stop a worker from reporting discrimination. This includes harassment and sexual harassment.

Example of when a non-disclosure agreement should not be used

Jay works in a hotel where high profile guests often stay. When they started the job, they were asked to sign a non-disclosure agreement. It said, 'you must not discuss anything that is said or happens in the hotel with anyone at all'.

When at work Jay is sexually harassed by their line manager. Because of the agreement Jay feels they cannot report this to HR or speak to their family about what has happened.

The employer should not have used this wording in the non-disclosure agreement. They should have made it clear that Jay was only prevented from sharing sensitive business information they overhear at the hotel.

[Find out more about the use of confidentiality agreements in discrimination cases from the Equality and Human Rights Commission](#)

Other times when a non-disclosure agreement should not be used

A non-disclosure agreement should not be used:

- before seeing if another solution can be used instead

- when confidentiality is not needed
- when the need for confidentiality already exists – for example some issues might be already covered by data protection law (UK GDPR)
- to cover up inappropriate behaviour or misconduct, especially if there's a risk of it happening again
- to avoid addressing disputes or problems
- to mislead someone
- if it could cause serious moral or ethical issues
- if it could cause any other negative outcomes or effects
- as a matter of routine

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