

Non-disclosure agreements

An employer might use a non-disclosure agreement (NDA) to stop an employee or 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 early 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 company secrets
- 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 their employee or worker might use a settlement agreement to resolve a dispute at work.

In some cases, employers might also ask the employee or 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 employee or 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 employee or 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 employee or 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 employee knows about the organisation confidential
- to stop someone making critical or insulting comments – for example about the employer or employee, 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 employee 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](#)
- reporting a crime to the police
- discussing their pay with anyone at work for reasons relating to [equal pay](#)

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

An employee 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 employee from whistleblowing.

However, if the employee then sells the organisation's data to a competitor, the employer could claim the agreement has been breached.

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 stop someone reporting discrimination, harassment or sexual harassment
- 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

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

An employer asks a new employee to sign a non-disclosure agreement in a rush on their first day of the job. The agreement says any type of bullying or harassment must be reported to their line manager. The employee does not have time to read and understand the agreement.

The employee later experiences sexual harassment from their line manager. They then read the agreement they signed and feel like they cannot report it. In this case the employer should not have used a non-disclosure agreement that could deter employees from reporting sexual harassment.

What employers can do to resolve problems at work

There are several things employers can do to try and resolve problems at work.

Follow the correct policies and procedures

Instead of using non-disclosure agreements, employers should follow full and fair procedures to try and resolve any issues at work.

For example, they should follow organisation procedures such as:

- [disciplinary or grievance procedures](#)
- [investigations](#)
- [whistleblowing procedures](#)

This can help:

- avoid problems getting worse
- avoid legal action
- stop employers from losing talented employees and workers
- keep employees and workers feeling valued and motivated
- encourage a more open and productive organisation

Create a good culture at work

If non-disclosure agreements are used for the wrong reasons, it can create a culture of distrust at work.

Instead of using a non-disclosure agreement, it's a good idea for employers to:

- encourage an open, inclusive culture at work
- support employees

Employees and workers should feel they can:

- speak up about any issues
- be confident they'll be heard
- have their problems addressed in an appropriate way

[Find out more about dealing with a problem raised by an employee](#)

Train managers

Training managers to spot early signs of disagreements and resolve issues can help:

- improve productivity
- stop problems getting worse
- avoid legal action

[Find out more about Acas training for managers](#)

Get more advice and support

If you need further help or support with non-disclosure agreements, you can [contact the Acas helpline](#).

If employers have concerns about using non-disclosure agreements, they should [get legal advice](#) before making any further decisions.

[Find out more about non-disclosure agreements](#)