

HANDLING CONFIDENTIAL INFORMATION

Having a Confidentiality Agreement in place is an important step, but how information is handled after this has been signed is even more important. This note includes some practical guidance about how to handle confidential information during any engagement with a third party.

Start with your contract

If you have a Confidentiality Agreement or other contract with the party you intend to share confidential information with, start by reviewing the provisions of the agreement to identify any requirements.

Depending on the nature of the information being shared, there may be procedural or technical steps to be followed for sharing and subsequently storing any such information. It might limit who you can share the information with and will set out how long the information must remain confidential for.

If the parties have gone to the trouble of putting these steps in a contract, it is important they are followed. If you don't have a contract or it doesn't cover confidentiality, we recommend you seek independent legal advice from your solicitor.

If you do not have a solicitor, please contact the Enterprise Office who will signpost you to one of our preferred solicitors. We strongly advise that you should not send or receive confidential information without having a formal agreement in place to govern that exchange.

Mark your information as 'confidential'

Whether your contract requires you to or otherwise, it is important to make sure any confidential information you share is clearly marked as confidential and any information of a confidential nature which you share verbally or in other medium is confirmed as being confidential at the time of disclosure or as soon as possible thereafter.

Clarify if the other party's information is confidential

Where you are receiving information from a third party, ensure you know whether it is confidential or not. Check markings, watermarks, file names and email footers. If you are not sure, ask – then ensure you handle it appropriately. If there is a contract in place, then follow the steps set out in the agreement. If there is no contract in place, then ask the external organisation to refrain from sending anything else confidential until a Confidentiality or Non-Disclosure Agreement (NDA) is in place.

Use it for the purpose it was shared

Your Confidentiality Agreement will specify the purpose for which the information is being shared. It should not be used for any other purpose without the discloser's express prior written consent.

Share it on a 'need to know' basis

To reduce the risk of information being shared in breach of any obligations of confidentiality, only share it with colleagues that need to know about it for the purpose specified. Ensure they understand it is confidential and be clear that they are required to comply with the contractual procedures which have been agreed with the other party for handling the information.

Disclaimer: This note is provided for general guidance only and does not constitute legal advice.