



signing contracts or establishing a client relationship, and can protect companies from potential lawsuits.

While companies focus on external threats, insufficient attention is given to the level of risk from within the business itself. Employees often have access to valuable customer contacts, financial and strategic business plans, which may be an attractive asset to competitors and potentially the media. While an individual cannot disclose confidential information during their employment, **the employee may use the information to their own benefit once a contract is terminated unless contractual restrictions are in place.** But one has to remember that even these restrictions have time limitations.

One of the most **important aspects of confidentiality is its role in building and preserving trust.** In this context, a breach of confidentiality is not only a legal problem, it becomes a relational issue, as it can be difficult if not impossible, to repair that trust. In order to ensure the integrity and security of confidential information, employees should only access data that relates to their job description and daily work activities. Both confidential and proprietary information must be handled with the same high degree of confidence and sensitivity. Perhaps more importantly, employees need to ensure that all the collected information must be securely stored or effectively disposed, and never communicated, transferred or resold to a third party without consent from the principal agent.

Even though the recipient would prefer a narrower definition, it is to the advantage of the company to define confidential information as broadly as possible. However, in order to make it workable, both parties need to strike a balance in defining confidentiality in a way that is specific enough to be useful, while flexible enough to incorporate new terms without having to sign additional documents. In some cases, the discloser has to resort to extreme measures, by defining confidential information as any information that relates to a particular project or relationship. But the biggest problem with this approach is knowing when to stop, as adding new terms and definitions

could make the whole protocol unworkable at the end of the day. This means that taking action to protect confidential information must begin and end with the employment relationship. There are five key methods that employers need to consider in order to ensure adequate protection for confidential information: (1) contracts; (2) policies; (3) training; (4) monitoring; and (5) enforcement. Employers should include comprehensive confidentiality provisions in the employment contracts and nondisclosure agreements. It is essential that they are not generic in their nature, but tailored to the particular requirements of the company, the individual's profile and the job description. In addition, **employers should be aware of the 'time-limitation' factor** – for example, how long will it be before the company's product-cycle changes, at which point the ex-employee's knowledge of those plans are no longer of value to a competitor?

The contractual provisions should be backed up by comprehensive policies that stipulate clear rules about the disclosure and use of confidential information – making sure that rights, obligations and consequences are clearly defined. Some companies choose to monitor their own employees in an attempt to mitigate risks relating to confidential information. New technology has made this process much more effective, less detectable and affordable. However, such protocols can interfere with the relationship of trust, and expose a company to potential lawsuits as it can be argued that unsolicited intrusion into an employees' private life could amount to a breach of data protection law.

An increasing amount of sensitive information is now digitised and resides within virtual storage silos. This means, that companies are now much more effective at managing their operations, but they are equally more vulnerable to cyber-attacks and to loss of data and associated trust. Therefore, employers and employees cannot afford to be complacent, and they need to make sure that confidential information is well protected and exposure to risk is reduced. A proactive approach together with a regular review process should be the cornerstone of any confidential information strategy.

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## Additional resources Further Reading

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### Step 1

Please refer back to Our Code of Conduct.

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### Step 2

If you would like to know more about Human Rights & Business, the following external links have been selected for your reference:

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#### **Gov.uk: Data protection and your business**

Guidance on data protection and personal data and how laws and regulations apply to businesses operating in the UK.

<https://www.gov.uk/data-protection-your-business>

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#### **Protecting your business's intellectual property and confidential information**

It is important that companies ensure they have adequate protections in place with their employees and consultants dealing with ownership of any IP rights generated on their behalf.

<https://www.cripps.co.uk/protecting-your-businesss-intellectual-property-and-confidential-information/>

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#### **World Intellectual Property Organization (WIPO)**

WIPO is the global forum for intellectual property services, policy, information and cooperation. WIPO's mission is to lead the development of a balanced and effective international intellectual property (IP) system that enables innovation and creativity for the benefit of all.

[http://www.wipo.int/sme/en/documents/disclosing\\_inf\\_fulltext.html](http://www.wipo.int/sme/en/documents/disclosing_inf_fulltext.html)  
[http://www.wipo.int/sme/en/ip\\_business/trade\\_secrets/trade\\_secrets.htm](http://www.wipo.int/sme/en/ip_business/trade_secrets/trade_secrets.htm)

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#### **The European IPR Help Desk [European Commission]: How to Manage Confidential Business Information**

This fact sheet illustrates the importance of confidentiality for businesses and gives hints on protection management of confidential business information.

[http://www.iprhelppdesk.eu/sites/default/files/newsdocuments/How\\_to\\_manage\\_confidential\\_business\\_information.pdf](http://www.iprhelppdesk.eu/sites/default/files/newsdocuments/How_to_manage_confidential_business_information.pdf)

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#### **Personnel Today: Protecting confidential information in the digital workplace**

The world of business is increasingly reliant on technology. So what can firms do to ensure important information is protected?

<http://www.personneltoday.com/hr/protecting-confidential-information-in-the-digital-workplace/>

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Do your own research on the Internet

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### Step 3

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