This chapter focuses on the law of breach of confidence, which protects trade secrets and privacy. It is judge-made law, with its origins in equity. The action for breach of confidence now resembles a common law cause of action, but its equitable basis is still evident in the flexibility and discretion the judges adopt in deciding cases. The Human Rights Act 1998 required the courts to implement the right to private and family life. The courts have done this, in cases concerning private information, by extending the law to protect privacy where the information concerned was not secret. This is now regarded as a separate branch of the law. Special considerations also apply in relation to the duties employees owe to their employer both during and after their employment. There is a defence to an action for breach of confidence where publication is in the public interest.
6. Trade secrets, confidential information, and the protection of private information