

# Restrict & Regulate Non-Disclosure Agreements

## *Stop Silencing Women & Workers*

### Selected Media and Reporting



The Australian media have covered the issue of non-disclosure agreements and efforts to regulate and restrict them extensively in recent times. Below is a selection of non-paywalled coverage, and other commentary and reports.

### [Should non-disclosure agreements be restricted in cases of workplace sexual harassment? Here's what reforms need to get right](#) <<

#### **The Conversation / 17 December 2024**

Lisa Heap Senior Researcher Centre for Future Work at the Australia Institute; Sessional Academic RMIT University, The Australia Institute David Peetz Laurie Carmichael Distinguished Research Fellow at the Centre for Future Work, and Professor Emeritus, Griffith Business School, Griffith University

**Excerpt:** “There is an appetite both in Australia and overseas for legislated, tighter restrictions on the use of NDAs. A key feature of good policy in this area is transparency. At the same time, we need to give victim-survivors more agency regarding if and how NDAs are used. A range of policy reforms could move us in that direction. First, the use of NDAs could be limited by creating a legislative presumption that they are not necessary. Legislation could reserve confidentiality restrictions for specified circumstances.”

### [Victorian review of NDAs gets strong support for outright ban in sexual harassment cases](#) <<

#### **The Guardian / 18 December 2024**

Benita Kolovos

**Excerpt:** “About 90% of submissions to a Victorian government-led consultation have recommended restricting the use of non-disclosure agreements (NDAs) in cases of sexual harassment, with a legal centre revealing pressure was put on a 15-year-old girl to sign one while she was working at a supermarket.”

### [Companies called out for using NDAs to stop women talking about sexual harassment](#) <<

#### **ABC News / 12 December 2024**

Lexy Hamilton-Smith

**Excerpt:** “The use of heavy-handed Non-Disclosure Agreements (NDAs) by Australian companies to gag women has been called out by the federal sex discrimination commissioner. Yesterday, landmark class actions were launched against Rio Tinto and BHP for alleged widespread, systemic sexual harassment and gender discrimination in mining sites across the country. The lawsuit claims women have been urinated on, defecated in front of, sexually groped and ridiculed, and often sacked if they spoke out. Most were forced to sign NDAs. Dr Anna Cody said she was “deeply concerned” NDAs were being used to manage women out after they complained.”

### [Maria felt pressured to sign an NDA after being sexually harassed. Now she's speaking out against the practice](#) <<

#### **The Guardian / 29 November 2024**

Benita Kolovos

**Excerpt:** “Hopes are rising that a push for change in Victoria means victims will no longer be ‘badgered into silence’ ‘We know that NDAs have become the default in sexual harassment cases and victim-survivors often feel they have no choice but to sign up – that’s flat-out wrong,’ said Jacinta Allan, the Victorian Premier. “This reform is about putting the voices of victim-survivors first – misuse of NDAs not only silences victim-survivors but protects perpetrators.”

## [Current and former Channel Seven staff describe a 'degrading, soul crushing' workplace that's left some suicidal and unable to work <<](#)

### **ABC Four Corners / 12 August 2024**

Louise Milligan, Nick Farrow and Dylan Welch

**Excerpt:** "Many former on and off-air staff who allege sexual harassment and bullying have been required to sign non-disclosure agreements (NDAs) that have silenced their right to tell their story. "They're trying to present an illusion of being robust, happy workplaces, performing a public interest in cutting-edge journalism," says solicitor Josh Bornstein, who has multiple clients at Seven and Nine. "What the NDAs do is mask the reality of a brutal workplace culture in which women particularly are mistreated very badly and routinely. It's an unusually brutal culture. I haven't actually seen anything like it."

## [Why strict non-disclosure agreements in sexual harassment cases shouldn't be the only option <<](#)

### **ABC Law Report / 21 March 2024**

Sophie Kesteven and Damien Carrick

**Excerpt:** "For Rachel, she says looking back, she would have thought twice about signing her own NDA. "I think it's terrible because the company still looks like a good corporate citizen, but they're not actioning any of the toxic environment they've got in the workplace," she says. "It's affected my health and wellbeing, and any women that would work there would feel the same. It's just a cover up and it's making the victim feel like they're the problem."

## [Fight to Get Rid of NDAs Silencing Workplace Harassment Victims <<](#)

### **The Project / 29 July 2024**

Waleed Aly

**Excerpt:** "One in three people have been sexually harassed in the workplace in the last five years. But the use of non-disclosure agreements in sexual harassment cases means many victims are being silenced unnecessarily, and now they're fighting back."

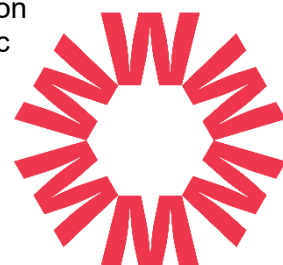
This TV segment features Working Women's Centre SA clients, and 'Let's Talk About Confidentiality: NDA use in sexual harassment settlements since the Respect@Work Report' authors Sharmilla Bargon and Regina Featherstone. Viewing time 7:10mins.

## [Let's Talk About Confidentiality: NDA use in sexual harassment settlements since the Respect@Work Report <<](#)

### **Research report, University of Sydney / 6 March 2024**

Sharmilla Bargon and Regina Featherstone

**Excerpt:** "The picture is worrying: despite the Respect@Work NDA Guidelines – NDAs are continuing to be used, misused – and over-used. Bargon and Featherstone's research and data shows that 75% of the profession has never reached a sexual harassment settlement without strict NDA terms and that 50% of respondent solicitors have never advised their clients that sexual harassment matters can be resolved without strict NDA/confidentiality terms. In this way, this report sheds important light on how the legal profession has responded – or failed to respond – to the broader public and policy discussions on workplace sexual harassment and the extent to which NDAs obscure the scale of the problem – and highlights how much further we need to go.



But most importantly, Bargon and Featherstone's report offers a way forward, with recommendations for improvement in practice that will ensure a victim-centred approach and better protect women in the workplace. What is clear from this report, and as we argue in our book, we need an approach to NDAs which better protects freedom of speech and the public interest in employees being able to speak out about sexual harassment and gender-based violence – and ensures that women are not being unfairly silenced." Foreword, Jennifer Robinson, Barrister, Doughty Street Chambers

### [Restricting NDAs in workplace sexual harassment cases](#) <<

Government of Victoria, Engage Victoria website

This website tracks the NDA legislation consultation process in Victoria, including a significant discussion paper, submissions to the public consultation, and a timeline of the process.

**Excerpt:** "The Victorian Government is progressing legislative reform to restrict the use of NDAs in workplace sexual harassment cases.

This reform is in response to the Victorian Ministerial Taskforce on Workplace Sexual Harassment (Taskforce), which recommended that the Victorian Government introduce legislative amendments to restrict the use of NDAs in relation to workplace sexual harassment cases.

The Taskforce found that NDAs are often misused to silence victims, protect employer reputations, and avoid full liability and that NDAs can be used to hide serial offending and offenders.

The Taskforce recommended that Victoria use the *Irish Employment Equality (Amendment) (Non-Disclosure Agreements) Bill 2021*, and lessons from other jurisdictions, including the United Kingdom and the United States, as the model for reform in Victoria."

### [Giving Sexual Harassment Victim-Survivors A Voice](#) <<

Media Release / 12 August 2024

Premier of Victoria, the Hon Jacinta Allen MP

**Excerpt:** "Non-disclosure agreements are being used to protect perpetrators and silence victims. That's flat-out wrong. We've listened directly to victim-survivors who have been silenced, and this nation-leading reform will make sure they are heard." Premier Jacinta Allan

"We will restrict the use of NDAs in sexual harassment cases to make Victorian workplaces and Victorian workers safer. We know that NDAs are too often misused, and this reform is about putting the voices of victim-survivors first." [former] Minister for Industrial Relations Tim Pallas

### [Can't Buy My Silence campaign](#) <<

International campaign website

This website is a global campaign hub and information clearinghouse for campaigns to end the misuse of NDAs to buy the silence of victim-survivors of sexual harassment and discrimination. It includes a significant amount of information from law reform work in the U.K, Ireland and North America/ Canada, including draft/model bills, media coverage, and materials for victim-survivors, lawyers and campaigners.

**Join the call to stop silencing women and workers through NDAs.  
Help eradicate sexual harassment and discrimination in our workplaces.**



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