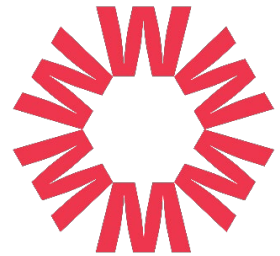


# Restrict & Regulate Non-Disclosure Agreements

## *Stop Silencing Women & Workers*

### Campaign Overview



## **Sexual harassment in workplaces is a serious issue in Australia.**

Everyone deserves to feel safe and to be treated equally at work.

Workplaces should be safe places for all – free of sexual harassment, discrimination and offending behaviours. Yet, one in three workers<sup>1</sup> have experienced workplace sexual harassment in the last five years. This is far too common.

Sexual harassment occurs in every industry, at every level and in every location. It is driven by outdated gender stereotypes and unfair power imbalances in the workplace, which continue to harm women and all workers.

Workplace sexual harassment is completely preventable, and most people want to do the right thing.

***It is difficult to stop sexual harassment if the people who experience it are prevented from talking about it, and if employers routinely use NDAs to stop workplace change.***

## **NDAs are part of the problem**

Non-Disclosure Agreements (NDAs) are legal contracts which require someone to keep secret the details of the harassment they experienced, often for the rest of their life. Usually this means they can't even speak to their family or GP about what happened.

In sexual harassment matters, victims often feel like they have no choice but to sign an NDA to resolve their complaint. In fact, a recent survey found that 75% of legal professionals<sup>2</sup> have never reached a sexual harassment settlement without strict NDA terms.

This is even though many experts now agree that blanket NDAs in sexual harassment and discrimination settlements are harmful and counterproductive. The Australian Government has public guidelines and internal policies which recommend that confidentiality clauses not be sought as standard clauses in workplace sexual harassment settlements.

Employers and their lawyers are routinely silencing and further harming victim-survivors by compelling them to sign NDAs. A UK study found that 95% of people who have signed an NDA experienced negative impacts on their mental health.<sup>3</sup>

According to an Australian survey, 59% of people who experienced sexual harassment in the workplace said their harasser had also targeted others.<sup>4</sup> NDAs hide systemic problems in workplaces and discourage action for change by protecting those responsible. Their overuse and misuse prevent the public and governments from knowing important information about employers, workplaces and the high occurrence of sexual harassment.

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<sup>1</sup> [Time for respect: the fifth national survey of workplace sexual harassment in Australian workplaces](#) Australian Human Rights Commission, 2022

<sup>2</sup> [Let's talk about confidentiality: NDA use in sexual harassment settlements since the Respect@Work Report](#) University of Sydney, 2024

<sup>3</sup> [The misuse of NDAs: Call for evidence themes and summary of evidence](#), Legal Services Board, U.K., 2024

<sup>4</sup> [Time for respect: the fifth national survey of workplace sexual harassment in Australian workplaces](#) Australian Human Rights Commission, 2022

## Positive action for change

It is not uncommon to read news stories about celebrity perpetrators who have used NDAs to cover up their abuse. However, it is less well known that NDAs are regularly used by powerful employers in Australia against ordinary workers.

***Alongside other recent beneficial changes to laws to combat sexual harassment in Australian workplaces, NDAs need to be regulated and restricted. We have the opportunity to do this in South Australia.***

Employers now have a legal responsibility – called Positive Duty – to proactively ensure their workplaces are safe places to work, free from sexual harassment, discrimination and unlawful conduct. The blanket use of NDAs in sexual harassment matters could prevent workplaces from meeting their Positive Duty obligations.

NDAs should only be used in sexual harassment matters when actively pursued by a victim after the opportunity for independent legal or industrial advice. They should be reversible and reportable. If NDAs are used, they should still allow victim-survivors to seek personal support.

NDAs that are signed for workplace settlements about sexual harassment, discrimination and misconduct should be reportable, with regulators able to identify and investigate overuse. Legal and economic consequences should exist for employers who overuse and misuse NDAs to hide systemic gender discrimination in their organisation.

## Change the laws

Communities and workers want governments to increase public transparency and take stronger action to prevent sexual harassment.

The Working Women's Centre SA is calling on the South Australian Government to legislate to restrict and regulate the application of NDAs in our state, so that their overuse and misuse is stopped.

Making this change would:

- Provide stronger protections for victim-survivors
- Challenge entrenched cultures that drive sexual harassment in workplaces
- Advance the public interest by requiring more transparency and accountability, and
- Provide greater consistency with Positive Duty laws.

***Changing the laws would build on existing South Australian Government commitments to Respect@Work and ensuring safer workplaces. It would act on the Australian Human Rights Commission's June 2025 recommendation that NDAs being restricted through legislation.***

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



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<sup>5</sup> [Speaking From Experience: What needs to change to address workplace sexual harassment](#), Australian Human Rights Commission, 2025