

Title:	Contractual duties of confidentiality relating to harassment and discrimination
Type of measure:	Primary legislation
Department or agency:	Department for Business and Trade
IA number:	DBT-075-25-CMRR
RPC reference number:	...
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Summary of Proposal

1. This amendment to the Employment Rights Bill will void non-disclosure agreements (NDAs) between employers and workers that prevent a worker from speaking out about harassment and discrimination in the workplace.
2. The Secretary of State will be able to make regulations through delegated powers to introduce exemptions to this (e.g. if the agreement is requested by the worker) and expand the definition of 'worker' to other worker-like individuals (e.g. types of self-employed persons).

Strategic case for proposed regulation

3. Harassment and discrimination in the workplace should never happen. While data on the use of NDAs is unavailable as they are private contractual agreements, evidence has emerged in recent years of some employers misusing NDAs to silence workers about workplace misconduct. Inquiries from the [Treasury Select Committee](#) and [Women and Equalities Select Committee](#) point to a number of cases where allegations of harassment and discrimination were suppressed. Some employers can exploit the inherent imbalance of power to get NDAs signed to cover up harassment and discrimination, fostering a culture of silence and impunity. NDAs can also have negative impacts on workers, especially when they are prevented from discussing their experiences with others.
4. Evidence suggests that harassment and discrimination in the workplace is prevalent and widespread:
 - a. According to the ONS Crime Survey¹, based on data collected between October 2022 and March 2023, over 1 in 10 people aged 16 years and over experienced at least one form of harassment in the past 12 months. Of the 75% of victims that experienced this in person 18% reported it occurring in workplace environments.
 - b. A survey conducted by HR and payroll software provider Ciph² of 4,000 adults, was carried out in two waves: July-August 2024 and November 2024. It found that 45% of respondents felt they have experienced some form of workplace discrimination in the UK.

¹<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/experiencesofharassmentinenglandandwales/december2023>

² <https://www.ciph.com/infographics/workplace-discrimination-statistics>

- c. The Financial Conduct Authority (FCA) conducted a survey³ in February 2024 which asked over 1,000 investment banks, brokers and wholesale insurance firms about their records and allegations of non-financial misconduct in 2021, 2022 and 2023. In the 3 years covered by the survey, bullying and harassment (26%) and discrimination (23%) were the most recorded concerns. 10% of discrimination incidents and 3% of bullying and harassment incidents resulted in a complainant signing a confidentiality agreement.
5. This evidence underscores the need to protect victims of harassment and discrimination in the workplace. Currently, said victims may enter non-disclosure agreements which can have the following negative effects:
 - a. Silencing victims prevents them from sharing their experiences with others which can make it harder for them to heal from the experience.
 - b. NDAs provide protection for the perpetrator as the complainant is prevented from exposing them or warning others. This potentially allows the perpetrator to continue in their behaviour if the workplace does not take action against them.

SMART objectives for intervention

6. The policy aim is to prevent employers from misusing NDAs to silence workers about allegations of harassment and discrimination. The intended outcome is to reduce the power imbalance between employers and employees, so employers can no longer coerce or unduly encourage workers to agree to remain quiet about allegations of harassment or discrimination. The overarching objective of the policy is to change business culture to reduce harassment and discrimination.
7. This amendment is not about reducing or banning the use of Non-Disclosure Agreements in other, appropriate circumstances. Government supports the right of businesses to use Non-Disclosure Agreements to protect sensitive business and commercial information and to protect trade secrets and other confidential data. This provision is designed to reduce the use of NDAs specifically where they gag workers from making disclosures against harassment and discrimination.
8. These objectives align with HMG objectives through the Plan to Make Work Pay a manifesto commitment to improve employment rights fit for a modern economy.

Description of proposed intervention and explanation of the logical change process whereby this achieves SMART objectives

9. The provision in the Employment Rights Bill will amend the Employment Rights Act 1996 to void any provision in an agreement between a worker and their employer insofar as it seeks to prevent a worker from making allegations of, or disclosing information about, harassment or discrimination. This would only void the provision that seeks to prevent such allegations or disclosure, the rest of the provision would stand.

³ <https://www.fca.org.uk/data/culture-non-financial-misconduct-survey-findings>

10. The outcome would be: The amendment will reduce the misuse of NDAs by employers wanting to silence workers about allegations of harassment and discrimination.

Summary of long-list and alternatives

11. A number of options were considered to address the misuse of NDAs. These options were selected based on a review of best practices from other countries and informed by discussions with key stakeholders with the aim of identifying the most viable, impactful and targeted approach.
- a. Option 1: Maintain the Status Quo. This baseline option assumes that NDAs can still be used to ensure employees cannot disclose harassment and discrimination using confidentiality clauses.
 - b. Option 2: Consult on ways to further address the misuse of NDAs. There may be other methods to address misuse, potentially through non-legislative means.
 - c. Option 3: Amend the Employment Rights Act 1996 to void any provision in an agreement between a worker and their employer insofar as seeks to prohibit a worker from disclosing allegations about unlawful harassment and discrimination. Other countries, such as Ireland⁴, have also implemented similar measures to void provisions.

Description of shortlisted policy options carried forward

12. The following options are being brought forward for appraisal:
- a. The baseline option (to maintain the status quo)
 - b. To amend the Employment Rights Act 1996 to void any provision in an agreement between a worker and their employer insofar as it seeks to prohibit a worker from disclosing allegations about unlawful harassment and discrimination.

NPSV: monetised and non-monetised costs and benefits

13. It should be noted there is currently no comprehensive data on the number or nature of NDAs used in cases involving workplace harassment or discrimination. As such, it is not possible to quantify or monetise the number of NDAs in future that will need to be adapted under the proposed policy. Therefore, the assessment focuses on articulating the likely costs of implemented and administering the policy, and the non-monetised costs and benefits that are likely to arise.
14. The impact on businesses is expected to be negative and mainly driven by familiarisation and administration costs. The impact to households is expected to be positive and driven by wellbeing benefits arising from the protections that will prevent them from being silenced by NDAs when speaking out on issues related to harassment and discrimination. Overall, it is expected that the non-monetised benefits arising from both reduced harassment and discrimination, and from individuals being able to disclose allegations of wrongdoing, are likely to exceed the costs faced by businesses from implementing the policy. These are articulated in Table 1.

⁴ [Employment Equality \(Amendment\) \(Non-Disclosure Agreements\) Bill 2021 – No. 82 of 2021 – Houses of the Oireachtas](#)

Table 1: Summary Impacts

	Business as usual (Baseline)	Preferred way forward (If not do-minimum)
Net Present Social Value and Equivalent Annual Net Direct Cost to Business (EANDCB)	£0	<p>Total NPSV over 10 years is estimated to be -£27.3m, whilst the EANDCB is estimated to be £3.2m. These are driven mainly by familiarisation and implementation costs.</p> <p>It captures impacts on businesses, households, tribunal cases, as well as business familiarisation costs.</p> <p>The monetised NPSV is currently indicative and does not include significant non-monetised benefits to employees through reduced discrimination and harassment, and being able to disclose allegations of harassment and discrimination.</p> <p>Additionally, the analysis does not account for potential reputational costs businesses may face from public exposure of harassment and discrimination. Such exposure could negatively impact profit and revenue, which in turn may impact employee wages and employment levels. These effects are excluded as the model does not include impacts on non-compliant businesses.</p>
Public sector financial costs (with brief description, including ranges)	£0	<p>Public sector costs may include annual ongoing costs associated with increased use of Acas and Employment Tribunal services by employees pursuing claims. These are expected to be minimal or negligible. Public sector employers may also incur administrative costs related to updating internal policies and training staff on the new legal framework.</p> <p>At the same time, public sector employees may benefit from greater transparency and protection in the workplace. Impacts have not been separated out by public and private sector employers as further evidence is needed to understand the extent to which public sector bodies currently rely on NDAs in these circumstances.</p>
Significant un-quantified benefits and costs (description, with scale where possible)	£0	<p>Wellbeing benefits to workers from being able to speak openly about experiences of workplace harassment or discrimination, which may support emotional recovery and reduce feelings of isolation.</p> <p>Benefits to employers through fostering a more transparent and inclusive workplace culture, potentially improving employee trust, morale, and long-term retention.</p> <p>Costs to employers and public services from a potential increase in formal dispute resolution processes, including time and resource demands on HR teams and legal departments.</p> <p>Potential reputational risks to organisations from increased public disclosure of internal issues, which may impact stakeholder confidence and recruitment in the short term.</p>
Key Risks	N/A	<p>Key risks are the limited evidence available to estimate the prevalence of NDAs used in harassment and discrimination cases and the likely behavioural response from employers and employees following a ban. These risks are addressed in this IA. There is also limited information on how the removal of NDAs may affect the volume of cases progressing to formal dispute resolution, including Acas and Employment Tribunals.</p> <p>A further risk is the assumption that all familiarisation and implementation costs will be incurred in the first year. In practice, uptake and behavioural change may occur more gradually, meaning that costs could be spread over a longer period. This may affect the timing and distribution of estimated impacts.</p>
Results of sensitivity analysis	N/A	Due to uncertainty around the timing of implementation and familiarisation, the costs presented in this IA assume all impacts occur in Year 1. In practice,

		uptake may be more gradual, and costs could be distributed over a longer period. As such, the estimates are illustrative.
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Costs and Benefits to Businesses

15. The following sections firstly present the method and calculations for the estimates of costs from illustrative scenarios. Secondly this section discusses qualitatively the (non-monetised) costs and benefits from the policy.

Monetised Costs to Businesses

Familiarisation Costs

16. Typically, any new employment legislation introduces costs to business, at least in the short-term. Familiarisation costs for businesses cover the time needed to understand how their own schemes interact with the statutory provision, to update internal guidance and systems and disseminating this to staff, and to access specialised advice (for example, consulting a lawyer or ACAS guidance).
17. It is estimated there are around 1,454,702 businesses with employees in scope⁵. We assume that the number of businesses is the same as in 2024 from the DBT Business population estimates for the UK (excluding Northern Irish businesses and businesses with zero employees.) It should be noted that the figure used is a conservatively high figure, due to NDA use likely to be concentrated in specific sectors (e.g. culture, media, finance). However, due to the lack of robust data, the estimate is applied uniformly across all businesses in-scope.
18. This IA uses the assumptions from the Confidentiality Clauses Impact Assessment⁶ published in 2019 as both policies address the misuse of NDAs in case of workplace harassment and discrimination. Given the shared focus of protecting workers from being silenced by ensuring worker protections remain even in cases of disclosing against workplace harassment or discrimination, it is appropriate to apply similar evidence. Additionally, the continued lack of data on NDA prevalence makes it further applicable to use previous assumptions regarding non-monetised impacts.
19. Labour costs for small and micro businesses familiarising themselves with the policy are estimated to be £34.97 while labour costs for medium and large businesses are estimated to be £33.81. Labour cost is calculated based on the median hourly wage rate of human resource managers and directors (£28.75 for small and micro businesses, and £27.80 for medium and large businesses) from the 2024 Annual Survey of Hours and Earnings (ASHE)⁷. The wage is then uplifted by 22%, derived from the internal analysis of the UK Economic Accounts, to account for non-wage labour costs⁸.
20. For both small and micro businesses, and medium and large businesses, we assume one employee will spend an 0.5 hrs familiarising themselves with the policy. Although other impact assessments, such as whistleblowing, assume one hour for familiarisation, it is

⁵ [Business population estimates 2024 - GOV.UK](#)

⁶ [Impact Assessment: Confidentiality Clauses: measures to prevent misuse in situations of harassment or discrimination](#)

⁷ [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Office for National Statistics](#)

⁸ [UK Economic Accounts time series - Office for National Statistics](#)

expected that businesses will integrate their understanding of the policy alongside other measures in the bill. As such, the time burden is likely to be lower when considered as part of a broader compliance effort.

Table 2: Employer Familiarisation Costs

** Numbers have been rounded for simplicity*

Best Estimate	
Small & micro businesses	
<i>Micro businesses have less than 10 employees. Small businesses have less than 50 employees.</i>	
Familiarisation time (hours)	0.5
Median uplifted hourly wage	£34.97
Number of small/micro businesses	1,400,000
Total cost	£24,500,000
Large & medium businesses	
<i>Medium businesses have 50-249 employees. Large businesses have 250 or more employees.</i>	
Familiarisation time (hours)	0.5
Median uplifted hourly wage	£33.81
Number of large/medium businesses	50,000
Total cost	£900,000
Overall	
Total cost	£25,400,000

Employer Lawyers' Familiarisation Costs

21. Employment lawyers may also need to familiarise themselves with the proposed changes. Unlike HR managers, who are primarily responsible for implementing internal workplace policies, employment lawyers provide legal advice on the drafting, interpretation, and enforceability of employment contracts and settlement agreements.
22. Again, by using the assumptions used in previous Government impact assessments, we use the figure of 0.5 hrs as the estimated familiarisation time for employment lawyers. This is due to the expectation they would be likely to review this legislation alongside other related updates. Employment lawyers are also likely to already be familiar with the legal framework surrounding NDAs and employment law, so the additional time required to understand the specific implications of this policy is expected to be minimal.
23. Also assumed is the ASHE 2024 hourly wages for a legal professional (£24.62) uplifted for non-wage labour costs (22%). We assume the membership of the Employment Lawyers Association (around 7,000) as our estimate for the number of UK employment lawyers⁹. We are unable to remove the number of lawyers in Northern Ireland from this, so this presents a conservative estimate.
24. While this assessment includes the familiarisation costs to employment lawyers, it does not monetise any potential benefits to the legal profession. These may include increased demand for legal advice, contract redrafting, and representation disputes arising from the policy change. Such benefits could partially offset the familiarisation costs but are not quantified due to uncertainty around their scale.

Table 3: Employment Lawyers' Familiarisation Costs

Best Estimate	
Familiarisation time (hours)	0.5
Median uplifted hourly wage	£29.95

⁹ [About ELA | Employment Lawyers Association \(UK\)](#)

Number of employment lawyers	7,000
Total cost	£100,000

Employer One-off Implementation Costs

25. The other costs that have been monetised are the employer one-off implementation costs associated with updating guidance and contract templates so they are in line with the new legislation.
26. Most employers are likely to use templates for their employment contracts and settlement agreements, to ensure that all the key legal areas of these documents are considered when completing documents for individuals, or potentially multiple staff in a similar role. Many employers, especially large and medium employers, will have templates specific to their organisation. However, some HR consultancies, legal businesses, and advice groups like Acas make free templates for employment contracts, written statements of employment and settlement agreements available online.
27. As before, we draw on the Confidentiality Clauses Impact Assessment published in 2019 for our assumptions. For micro and small businesses we assume they will not have their own in-house HR resource. They will make use of their external HR or legal advisor or will use the free templates when writing employment contracts or settlement agreements. Therefore, there will be no implementation cost for small and micro businesses. This is in line with guidance from the Chartered Institute of Personnel and Development (CIPD), which notes that in very small organisations, such as those with fewer than 50 employees, there is often no need for a dedicated HR professional, and HR responsibilities are typically managed alongside other roles¹⁰. This is further backed up by evidence from the Survey of Employment Tribunal Applications 2013, which shows that, for employers that were party to an employment tribunal case, large and medium sized businesses were much more likely to have an internal HR department than small or micro businesses¹¹.
28. For medium and large businesses, we assume they will have their own in-house HR professional or department, as they will have large workforces which will require greater HR input. These employers will have to update their own templates specific to the business. This is a conservative approach, as some of these employers may use general templates rather than firm-specific ones.
29. We estimate that in medium sized business it would take 1 hour of an HR director or manager's time to update their templates (labour cost of £27.80). In a large business, on average we estimate it would take an HR director or manager 2 hours, as they will tend to have more templates for different types of staff. We uplift the wages by 22% to account for non-wage labour costs. The updating will also involve updating handbooks, policies and collateral document.

Table 4: One-off Implementation Costs for Medium and Large Businesses

Best Estimate	
Medium businesses	
Implementation time	1
Median uplifted hourly wage	£33.81
Number of large businesses	42,100

¹⁰ [Working as a people professional in a small organisation | CIPD](#)

¹¹ Table 2.8 [Survey of Employment Tribunal Applications 2013](#)

Total cost	£1,400,000
Large businesses	
Implementation time	2
Median uplifted hourly wage	£33.81
Number of large businesses	11,100
Total cost	£700,000
Overall	
Total cost	£2,200,000

Employment lawyers, Legal businesses and HR Consultancies Implementation Costs

30. As with medium and large businesses, we expect that employment lawyers, legal businesses dealing with employment law and HR consultancies would need to update their templates for employment contracts, written statements of employment and settlement agreements. This includes the free templates that some of the businesses make available online. We estimate that it would take 1 hour of staff time to do this, either at the hourly labour cost for a legal professional (£24.61) or an HR director or manager (£27.80) uplifted by 22% to account for non-wage labour costs.

31. As indicated, above we estimate that there around 7,000 employment lawyers. For HR consultancies, we use the Annual Business Survey 2023 estimate for SIC 78.3, *other human resources provision*, which includes HR consultancies, which indicates there are 2,431 such businesses¹². For legal businesses, we take the estimate for solicitor firms in England and Wales from the Solicitors Regulatory Authority in April 2024, of 9,125¹³. This is potentially an overestimate as it will include firms that don't deal with employment law, but this is partially balanced by the fact that it doesn't cover employment law firms in Scotland. This is also a conservative approach as some employment lawyers may be employed by legal firms (or medium and large employers) rather than be self-employed.

Table 5: One-off Implementation costs for Employment Lawyers, Law Firms and HR Consultancies

Best Estimate	
Employment lawyers	
Implementation time (hours)	1
Median uplifted hourly wage	£29.95
Number of employment lawyers	7,000
Total cost	£210,000
Legal businesses	
Implementation time (hours)	1
Median uplifted hourly wage	£29.95
Number of legal businesses	9,100
Total cost	£270,000
HR consultancies	
Implementation time (hours)	1
Median uplifted hourly wage	£33.81
Number of HR consultancies	2,400
Total cost	£80,000
Overall	
Total cost	£570,000

¹² [Non-financial business economy, UK: Sections A to S - Office for National Statistics](#)

¹³ [SRA | Regulated population statistics | Solicitors Regulation Authority](#)

Overall Costs

32. Adding the one off implementation costs together, the total net present value (NPV) of this policy is estimated to be £28.3m. Note that this NPSV does not take into account the non-monetised benefits of reduced harassment and discrimination and being able to disclose allegations.

Table 6: Total Costs Summary

Best Estimate	
Business costs	
Familiarisation costs	£25,400,000
One-off implementation costs	£2,200,000
Other costs	
Employment lawyers' familiarisation costs	£100,000
Employment lawyers, legal firms, and HR consultancies one-off implementation costs	£600,000
Total costs	£28,300,000

**Figures are rounded to the nearest £100,000. As a result, totals may not sum exactly.*

Non-monetised Costs and Benefits to Business

Non-monetised Costs to Business

Employment Tribunals & Acas Conciliation

33. By making it more difficult for employers to use NDAs, fewer allegations of harassment and discrimination may be resolved through settlement agreements. This, in turn, may lead to an increase in more cases being brought to Acas and the Employment Tribunals. Businesses would incur legal costs to defend these claims, as well as costs associated with early conciliation settlements and employment tribunal awards.
34. We only consider the costs to businesses arising from claims against the business that were unsuccessful or never reached Employment Tribunal. This is due to successful claims against a business being associated with business costs that have arisen from non-compliance.
35. Latest data states 14,350 Employment Tribunal claims for discrimination or harassment were made in 2024/25¹⁴. Due to the nature of NDAs, there is no robust evidence to suggest how many claims are currently avoided. Therefore, while we would expect an increase in claims due to the policy, we are unable to estimate by how much.

Reputational Damage

36. The proposed policy may lead to an increase in public disclosure of harassment and discrimination allegations. This can create a cost for businesses due to reputational damage. To note, cases where the business is found at fault are not considered as these costs have arisen from non-compliance (i.e. due to lack of proper safeguarding processes or appropriate training in place).

¹⁴ Table ET_R_1 [Main Tables Q4 2024 25.ods](#)

37. However, in instances where businesses have prevented harassment and discrimination, public disclosure of false allegations or cases where workers have acted inappropriately can harm a company's reputation.
38. Reputational damage could lead to loss of trust from clients and consumers, which can result in loss of business. Further, it can cause uneasiness amongst workers who may leave as a result of the reputational damage. This could potentially cause increased recruitment costs, particularly where there is already difficulty hiring externally due to the reputational damage.
39. The importance of reputation risk was underscored by a Deloitte report published in 2014¹⁵, which surveyed over 300 executives. It found 78% of respondents rated reputational risk as more important, or much more important than other strategic risks their companies face. In addition, 88% of companies stated they explicitly focused on managing reputational risk.

Operational Processes

40. If NDAs are no longer readily available to resolve cases of harassment and discrimination confidentially, businesses will likely need to adapt their operational processes, particularly concerning internal investigations. Employers will have a greater need to conduct proper internal investigations to ensure allegations are resolved.
41. While many companies may already conduct investigations even with a signed NDA, the risk of public disclosure under the new policy could encourage some employers to enhance the robustness of their procedures. This may include ensuring staff are adequately trained and resourced to manage more rigorous or frequent investigations. However, the extent of these changes will likely vary depending on the organisation's size, sector and existing practises, and will ultimately be driven by employers' own assessment of reputational, legal and financial interests.

Non-monetised Benefits to Business

Workplace Culture

42. A more transparent and accountable workplace culture may come about by restricting the use of NDAs in circumstances of harassment and discrimination. When issues cannot be easily concealed, businesses have a greater incentive to actively prevent harassment and discrimination. Such protections could lead to visible commitment from employers which would reinforce worker confidence in the organisation's care for their wellbeing. In turn, this would lead to the promotion of a workplace environment where workers are safer and feel safer, supported and empowered to raise concerns openly. Additionally, encouraging a culture that visibly opposes harassment and discrimination may act as a deterrent to potential perpetrators, reducing the likelihood of future incidents and the associated costs to businesses.
43. Fostering a transparent and safe culture could also benefit businesses in the form of reduced worker turnover, absenteeism and enhancing productivity. Workers will more likely stay at their firms and show greater productivity in a workplace where they feel safe.

¹⁵ [Deloitte Reputational Risk Survey Report 2014](#)

44. Whilst not directly related to the proposed clause on voiding NDAs in cases of harassment or discrimination, evidence from a Gallup poll highlights the broader cultural benefits of transparency in the workplace. The poll found that 65% of employees believed that greater transparency from whistleblowing positively impacted organisational ethics, and companies with a dedicated ethics officer were 35% more likely to respond effectively to whistleblower reports¹⁶.

Financial Settlements

45. When a harassment or discrimination case arises, settlements are often offered alongside NDAs by employers in a bid to avoid public scrutiny, reputational damage and future legal claims.
46. Due to the confidential nature of NDAs, there is a lack of robust evidence needed for more in-depth analysis on how much monetary benefit businesses will experience from new employment protections against NDAs potentially resulting in a decline of financial settlements.

Impact on Small and Micro Businesses

47. The preferred option is expected to apply to businesses of all sizes in line with the principle that all workers should be protected in cases of harassment and discrimination, regardless of the size of their employer. As of 2024, there are around 1.45 million businesses, with approximately 1.44 million of those being small to medium sized enterprises, and 11,000 being large corporations (businesses with 250 or more employees)¹⁷. While smaller businesses are less likely to use NDAs in the context of harassment or discrimination due to their simpler organisational structures and fewer formal HR processes, they may face disproportionate compliance costs relative to their size and resources.

Non-monetised Costs and Benefits to Households

48. The impacts of this policy are expected to fall almost exclusively on workers, and therefore, we refer to *workers* rather than *households* throughout this section. The costs and benefits to the worker are either unquantifiable or unmonetisable due to the confidential nature of NDAs which has meant there is a lack of robust evidence needed for more in-depth analysis.
49. Impacts on workers will include potential benefits on a workers' emotional wellbeing, where the strengthening of protections against the misuse of NDAs could provide a greater sense of justice and closure, and reduce the psychological burden often associated with being silenced. The proposed policy may also empower individuals to speak out, fostering a culture of openness and accountability. In turn, this can contribute to a safer and more supporting working environment particularly for those who may be at risk from experiencing harassment or discrimination.

¹⁶ [Whistleblower Statistics: Market Data Report 2025](#)

¹⁷ [Business population estimates for the UK and regions 2024: statistical release - GOV.UK](#)

Non-monetised Costs to Households

Financial Settlements

50. As the provision will restrict employers from using NDAs in the context of discrimination and harassment, it may reduce their willingness to offer financial settlements. NDAs often serve as a bargaining tool, providing employers with confidentiality in exchange for compensation. Without this mechanism, employers may be less inclined to settle or may offer lower amounts. However, NDAs in the context of harassment and discrimination will not be completely prohibited, with regulations expected to set strict conditions for NDAs to still be validly made (eg. if a worker requests one). Given the intention for the regulations is to ensure workers can still request NDAs the option for confidentiality remains and may preserve some of the incentive to settle.
51. According to Acas, NDAs are frequently used within settlement agreements to keep the terms, such as the amount of compensation, confidential¹⁸. This confidentiality can incentivise employers to offer higher settlements to avoid reputational damage. The aim of the proposed measure is to restrict the use of NDAs, but it does not remove them entirely as government will set out in regulations a narrow set of exemptions, with the intention to allow workers to still request confidentiality (the conditions for excepted NDAs will be outlined in regulations). This change shifts the control over NDAs to the worker, potentially strengthening their bargaining position meaning confidentiality becomes a benefit they can offer, rather than a condition imposed on them.

Non-monetised Benefits to Households

Wellbeing Benefits

52. The primary benefits we foresee as a result of this policy are substantial wellbeing benefits to workers. These are benefits that refer to improvements in individuals' overall quality of life that are not directly financial in nature.
53. The policy is likely to have especially positive effects for workers who have been subjected to harassment and discrimination in the workplace. The UK Parliament and Equalities Committee (2019) report¹⁹ provides compelling evidence of the harm caused by NDAs. It notes that signing a confidentiality agreement can be a "traumatic experience" for individuals who have already suffered from discrimination or harassment. Many individuals were said to have reported feeling 'silenced, isolated and unable to move on with their lives.' The report also documents how this silencing can prevent individuals from warning others or seeking support, thereby compounding their distress and prolonging the psychological impact.
54. Additionally, the effects of NDAs do not remain confined to the individual, they ripple outward, affecting family members, household dynamics, and even children's emotional environments. When a parent or partner is burdened by unresolved trauma and secrecy, it can strain relationships, reduce emotional availability, and increase household stress.
55. Restricting of NDAs as a power to silence workers from disclosing on cases of workplace discrimination or harassment therefore gives potential for significant positive benefits for

¹⁸ [Using non-disclosure agreements - Non-disclosure agreements - Acas](#)

¹⁹ [The use of non-disclosure agreements in discrimination cases – House of Commons Women and Equalities Committee](#)

households. Allowing individuals to speak freely about their experiences can foster healing and promote resilience. It also empowers individuals to seek professional help, participate in support networks, and advocate for safer workplaces, all of which would contribute to a healthier and more stable wellbeing.

56. This policy may also contribute to preventing harassment and discrimination from occurring in the first place. By removing the option for employers to use NDAs to silence victims, the policy reduces the likelihood that perpetrators can act without consequence. This increased transparency and accountability is expected to disincentivise harmful behaviour, fostering a safer and more respectful workplace culture overall.

Economic Security

57. Restricting the use of NDAs in workplace discrimination and harassment cases would significantly strengthen the economic security of workers. Workers who sign an NDA as they leave a job can be unable to disclose the reasons for the departure. This can severely limit future job prospects, reduce earning potential, and disrupt long term career development. Workers, particularly women, ethnic minorities, and other marginalised groups, are disproportionately affected, often being pushed out of their industries entirely.
58. The UK Parliament Women and Equalities Committee (2019) report provides clear evidence of the economic harm NDAs cause to workers. It notes that many individuals were ‘unable to explain gaps in their CVs or why they had left a previous job,’ which directly impacted their ability to secure new employment. The report also highlights how NDAs can prevent workers from warning others or holding perpetrators accountable, allowing harmful workplace cultures to persist. Academic research by Professor Lizzie Barmes (2022)²⁰ further supports this, arguing that NDAs suppress the economic agency of workers, particularly those by underrepresented groups.
59. If workers are no longer forced to sign NDAs where they have been a victim of harassment or discrimination they will be able to speak about their experiences, seek redress, and remain in the workforce without fear of retaliation. This transparency supports fairer hiring and promotion practises, reduces career disruption, and helps ensure that workers are not penalised for reporting misconduct. Over time, these changes contribute to a more equitable and stable labour market, where workers can build secure, uninterrupted careers.

Additional Acas early conciliation and Employment Tribunal cases

60. The proposed policy may potentially encourage more harassment and discrimination cases to enter Acas early conciliation and, where resolution is not reached, process to Employment Tribunal. Workers who bring forward valid claims may benefit from financial compensation. Whilst Acas does not publicise financial details of settlements, the average Employment Tribunal awards for 2023/24 discrimination cases are shown in the table below.

Table 7: Compensation awarded by Tribunals, by jurisdiction 2023/24²¹

Claim Jurisdiction	Mean Award	Median Award
Race Discrimination	£29,500	£10,300
Sex Discrimination	£53,400	£16,200

²⁰ [Silencing at Work: Sexual Harassment, Workplace Misconduct and NDAs | Industrial Law Journal | Oxford Academic](#)

²¹ [Table E_2 Employment and EAT 2023 24.ods](#)

Disability Discrimination	£44,500	£17,200
Religious Discrimination	£10,750	£8,500
Sexual Orientation Discrimination	£7,100	£26,700
Age Discrimination	£102,900	£86,300

61. However, it should be noted workers will also face considerable costs for bringing forward claims, which will include legal fees, time off work and emotional strain. As a result, not all affected individuals will be willing or find it feasible to bring forward cases. Even where claims are pursued, there is no guarantee that they will be successful.

Business Environment

62. As the policy is not expected to have any impact on labour costs, there is no expected impact on business investment and business environment.

Trade Implications

63. From a legal standpoint, the policy does not impact international trade as it is compliant with international obligations and does not have any implications for trade partners.

Environment: Natural Capital Impact and Decarbonisation

64. We expect that there is no impact on environment, natural capital and decarbonisation as a result of the policy. The regulation does not directly relate to environmental or decarbonisation goals.

Other Wider Impacts

Wider impacts on Acas Services and Employment Tribunals

65. Restricting the use of NDAs in cases of workplace discrimination and harassment is likely to have wider systemic impacts, particularly on public sector bodies such as Acas and the Employment Tribunal system. While the option of confidential settlements will remain (where requested by the worker), the reduced ability for employers to impose NDAs may lead to more disputes progressing to formal resolution channels. This may result in some additional demand on Acas early conciliation services and Employment Tribunals, though the overall scale of impact is expected to be manageable.

66. Additionally, Acas may need to expand its guidance, training, and mediation services to support employers and employees navigating disputes without the use of NDAs. This could require additional funding or reallocation of resources.

67. Acas has acknowledged that NDAs are often used to resolve disputes privately and avoid escalation. If NDAs are restricted, more cases may remain unresolved at the workplace level, increasing reliance on Acas conciliation and tribunal processes. This aligns with Acas' own guidance, which notes that the misuse of NDAs can erode trust and lead to more formal

disputes, suggesting that removing NDAs without alternative resolution mechanisms may increase demand for public dispute resolution services²².

Public Sector Equality Duty (PSED)

68. The Equality Act 2010 protects against unlawful discrimination based on the following protected characteristics:

- a. Age
- b. Disability
- c. Gender reassignment
- d. Marriage and civil partnership
- e. Pregnancy and maternity
- f. Race
- g. Religion and or belief
- h. Sex and Sexual orientation

69. The Department for Business and Trade is subject to the public sector equality duty (PSED) set out in the Equality Act 2010. It requires public bodies to have due regard to the need to:

- a. Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act.
- b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c. Foster good relations between people who share a protected characteristic and those who do not.

70. An equality analysis is an important mechanism for ensuring that we gather data to enable us to identify the likely positive and negative impacts that policy proposals may have on certain groups, and to estimate whether such impacts disproportionately affect such groups.

71. As data related to NDAs is limited, we will be focusing the equality analysis on the incidence of harassment and discrimination cases in the workplace. While all protected characteristics will be covered, evidence shows that some groups are more likely to be impacted.

72. Research has shown 8% of women reported experiencing workplace sexual harassment in 2023, compared to 3% of men²³. Ethnic minority employees are more likely to report unfair treatment, and disabled workers face higher rates of bullying and exclusion²⁴. LGBTQ+ individuals also report disproportionately high levels of workplace discrimination, with over 25% experiencing discrimination due to their identity²⁵. These groups are therefore likely to experience the greatest positive impact from the proposed policy change.

²² [Challenging the use of NDAs - Acas](#)

²³ [Employment Rights Bill: House of Commons Committee Stage | EHRC](#)

²⁴ [Acas: Protected Characteristics](#)

²⁵ [Stonewall.org - LGBTQ+ workplace discrimination](#)