

Options assessment

Title: Options assessment for regulations to prevent the misuse of non-disclosure agreements in relation to relevant harassment or discrimination

Type of measure: Secondary Legislation

Department or agency: Department for Business and Trade

IA number: DBT-05-26-CMRR

RPC reference number: N/A

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1. Summary of proposal

1. The Employment Rights Act 2025 introduces a new measure that will address the misuse of non-disclosure agreements (NDAs) by employers who want to silence workers about harassment and discrimination in the workplace. While NDAs can have legitimate purposes, they should not be used to take unfair advantage of workers.
2. This measure will void any provision in an agreement, such as a contract of employment or settlement agreement, between a worker and their employer in so far as it prevents a worker from speaking out about relevant harassment or discrimination.
3. The Secretary of State will be able to make regulations through delegated powers to introduce exemptions to this: to outline the conditions for an 'excepted agreement' (i.e. those conditions that must be met in order for an NDA to be valid in cases of relevant harassment and discrimination) and to establish a framework for permitted disclosures (the individuals that a worker can still speak to irrespective of signing the excepted agreement). The Secretary of State will also be able to make regulations to extend the measure to individuals that do not meet the definition of 'worker' (e.g. types of self-employed persons). The [consultation](#), which this options assessment accompanies, seeks views on the conditions for an excepted agreement, permitted disclosures for workers that have signed an excepted agreement, and the application of section 202A to individuals beyond the standard definition of worker.

2. Strategic case for proposed regulation

Problem under consideration

4. Harassment and discrimination in the workplace should never happen. While comprehensive data on the prevalence 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 in cases of workplace harassment and discrimination, when they are prevented from discussing their experiences with others.
5. Evidence suggests that harassment and discrimination in the workplace is prevalent and widespread:
 - According to the ONS Crime Survey¹, based on data collected between October 2022 and March 2023, 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.
 - 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.
 - 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. Ten percent of discrimination incidents and 3% of bullying and harassment incidents resulted in a complainant signing a confidentiality agreement.
6. This evidence underscores the need to protect victims of harassment and discrimination in the workplace. Under the current legal framework, NDAs can be used in cases of workplace harassment and discrimination without sufficient safeguards in place to prevent potential misuse by employers. These victims may enter NDAs which can have the following negative effects:
 - Silencing victims prevents them from sharing their experiences with others and receiving emotional and psychological support that may be required. This can make it harder for them to heal from the experience.
 - NDAs may also provide protection for the perpetrator as the complainant is prevented from warning others about their behaviour. This potentially allows the perpetrator to continue in their behaviour if the workplace does not take action against them.

Rationale for intervention

¹ [Experiences of harassment in England and Wales](#), ONS, 2023

² [Workplace discrimination statistics in 2025 | Discrimination at work](#), Ciph², 2025

³ [Culture and non-financial misconduct survey](#), FCA, 2024

7. The government intervenes in the labour market to strengthen employment rights for efficiency and equity reasons. Employers generally have greater bargaining power than workers, access to in-house legal advice, and may be incentivised to avoid reputational risk from exposure of harassment and discrimination in their workplaces. Workers that are victims of harassment and discrimination can be placed in a vulnerable position, with incentives to accept agreements to end an unpleasant situation quickly without consideration of the best interest of the worker in the long term. Some employers can exploit this inherent power imbalance to secure NDAs that prioritise preserving organisational reputation over employee welfare. This can lead to situations where NDAs are used to gag workers from making disclosures about harassment and discrimination.
8. At the same time, the government recognises that the use of NDAs may be appropriate in certain cases. For some workers, confidentiality can provide closure to a distressing experience and avoid the burden of lengthy and costly proceedings in an Employment Tribunal or court. It is important to have a clear framework that sets out the conditions under which such agreements may be used to give clarity to workers and employers.
9. While addressing the employer-worker power imbalance to achieve more equitable outcomes is the primary rationale for intervention, the policy measure may also address other forms of market failure:
 - Information asymmetry: Employers typically hold more information about internal practices, culture and past allegations than workers or prospective workers. The use of NDAs to silence workers and intentionally suppress information means that prospective workers are unable to make employment decisions that reflect their preferences. In addition, workers employed in organisations where harassment and discrimination have occurred may be unaware and unintentionally expose themselves to risk. Restricting NDAs in these contexts increases transparency and reduces information failures. Furthermore, workers often lack full knowledge of the legal effects of NDAs, including what they can lawfully disclose. Without independent advice or minimum standards, workers may find it hard to reliably judge whether agreeing to an NDA aligns with their interests.
 - Externalities: NDAs that hide workplace harassment or discrimination can harm people beyond those who sign them. For instance, other employees may face greater risks if an incident is covered up. These broader costs show how private agreements can impact society as a whole.
 - Moral Hazard: When NDAs can be used to conceal wrongdoing, employers may have weaker incentives to put internal preventative measures in place or improve their workplace cultures. If unchecked, this can promote using NDAs for reputation management rather than prioritising employee welfare.

Impact of no intervention

10. In the absence of intervention, some employers could continue to misuse NDAs, allowing harassment or discrimination to persist. This would be to the detriment of victims who may face difficulties healing from the experience without being able to share their experiences with others. Perpetrators may remain undisclosed and active, increasing the risk of repeated harm. No intervention would fail to address the issues outlined above.

3. SMART objectives for intervention

11. The objective of this policy is to prevent employers from misusing NDAs to silence workers who raise allegations of harassment and discrimination. The intended outcome is to address the power imbalance between employers and employees by protecting workers from coercion or pressure to remain silent. The policy also aims to empower workers to make informed decisions about confidentiality, giving them greater control and understanding over any agreements they choose to enter into.
12. This measure is not about preventing the use of NDAs in other, appropriate circumstances. The government supports the right of businesses to use NDAs to protect sensitive business and commercial information, trade secrets and other confidential data.
13. SMART Objectives:
 - Reduce the misuse of NDAs in cases of workplace harassment and discrimination by voiding confidentiality provisions that prevent workers from making disclosures about relevant harassment or discrimination
 - Improve worker understanding and informed consent in relation to confidentiality agreements by requiring strict conditions to be met in order for an NDA to be valid (termed an 'excepted agreement') in respect of relevant harassment or discrimination disclosures.
 - Ensure workers that still wish to enter into an excepted agreement are able to seek support or advice following harassment or discrimination in the workplace by establishing a framework of permitted disclosures (the individuals or groups workers can still speak to, irrespective of signing the excepted agreement).
 - Extend scope of the measure, where appropriate, to other individuals that do not meet the standard definition of worker in the Employment Rights Act 1996, such as groups of self-employed.
14. These objectives align with the government's objectives through the Plan to Make Work Pay, a manifesto commitment to improve employment rights fit for a modern economy. By promoting fairer working practices, equality and transparency, this measure could benefit businesses through reduced workforce turnover, lower absenteeism and improved productivity. This measure forms part of the government's mission to grow the economy, raise living standards and create opportunities for all.

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

15. The provision (Section 202A) in the Employment Rights Act 2025 (hereafter referred to as "the Act") 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, relevant harassment or discrimination. This would only void the provision that seeks to prevent such allegations or disclosure, the rest of the agreement would stand.

16. The consultation, which accompanies this options assessment, builds on the Act. It seeks views on the conditions for an excepted agreement, permitted disclosures for workers that have signed an excepted agreement and the application of Section 202A to individuals beyond the standard definition of worker.
17. The intended outcome of the policy is to protect workers against the misuse of NDAs where employers are using them to cover up relevant harassment and discrimination.

Theory of Change

18. Inputs:

- Secondary legislation specifying:
 - The conditions under which an NDA is valid to prevent a worker making disclosures about relevant harassment and discrimination ('excepted agreements')
 - The categories of permitted disclosures - the individuals or groups workers can still speak to irrespective of signing the excepted agreement
 - The extension of protections to individuals beyond the standard definition of "worker"

19. Outputs:

- NDAs that seek to prevent worker disclosures about relevant harassment and discrimination become void, unless they meet the terms for an excepted agreement.
- Organisations revise contract templates, settlement processes, and internal HR guidance to comply with new requirements.

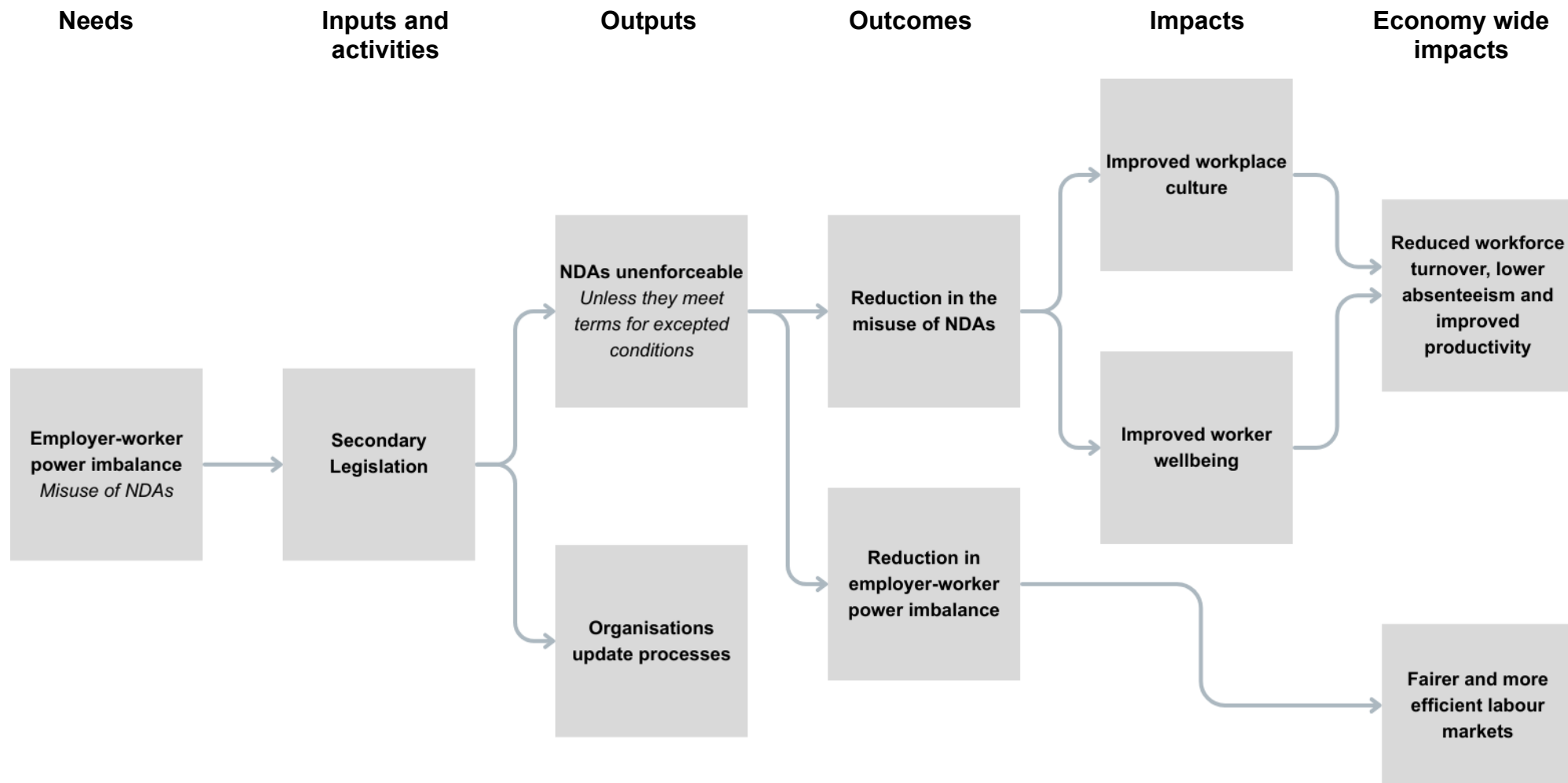
20. Outcomes:

- Workers have greater understanding and informed consent regarding confidentiality agreements, due to clear conditions for valid NDAs.
- Fewer NDAs are misused to prevent workers from disclosing harassment and discrimination
- The power imbalance between employers and workers is reduced.

21. Impacts:

- Workers experience improved wellbeing, as NDAs can no longer be used to silence them about workplace harassment or discrimination, which may support emotional recovery and reduce feelings of isolation.
- Workplace culture improves by fostering a more transparent and inclusive environment, potentially improving trust, morale, and long-term retention.
- Labour markets become fairer and more efficient, as the policy addresses employer-worker power imbalances.

Theory of Change: Impact of regulations to prevent the misuse of non-disclosure agreements in relation to relevant harassment or discrimination



5. Summary of long-list and alternatives

22. Detail on the options being consulted on is covered in Section 6 below. In addition, the initial long-list of options contained the following:
23. No intervention (Do Nothing): The baseline option is to maintain the status quo. NDAs could continue to be used without new restrictions, and employers would remain able to include confidentiality clauses that would prevent disclosures of harassment and discrimination. As noted in the published impact assessment on contractual duties of confidentiality relating to harassment and discrimination⁴, this would allow misuse to continue and fail to address the employer-worker power imbalance.
24. Non-regulatory option: The government considered developing voluntary guidance to discourage the misuse of NDAs in cases of harassment and discrimination, encouraging employers to adopt best practice. There is existing guidance published by Acas, which covers when an agreement might be used, when an agreement would be unenforceable, and how to use an agreement fairly, ensuring that workers understand the terms of the agreement.⁵ The Equality and Human Rights Commission provides guidance on the use of confidentiality agreements in discrimination cases.⁶ The Solicitors Regulation Authority has also published a warning notice for law professionals on the key issues and risks related to NDAs, as well as the regulatory obligations that solicitors should have regard to⁷. However, this approach was discarded because existing guidance from Acas, the Equality and Human Rights Commission, and the Solicitors Regulation Authority has not been sufficient to address the core market failures or reduce the prevalence of workplace harassment and discrimination. Evidence shows that voluntary measures alone do not meet the policy objectives, making legislative intervention necessary.
25. Void NDAs without exceptions: Voiding NDAs without exceptions would fully eliminate misuse but was discounted because it risks significant unintended consequences. NDAs can be appropriate, for example where workers seek confidentiality for closure. A blanket ban would undermine workers' autonomy and reduce the likelihood of mutually agreed settlements where confidentiality is genuinely desired by workers.
26. Restrict NDAs in cases of relevant harassment and discrimination (Preferred Option): Together with section 202A in the Employment Rights Act 1996, restrict the use of NDAs in cases of relevant harassment and discrimination by outlining the: specific conditions where NDAs may still be valid (excepted agreement); establishing a framework of permitted disclosures (those individuals who workers can still speak to irrespective of signing the excepted agreement); and consider, in the future, whether to expand the future application of the measure to other individuals that do not meet the standard definition of worker in the Employment Rights Act 1996. This is the preferred option, and the consultation seeks views on the details to be set out in secondary legislation.
27. Compared to voiding NDAs in all cases of relevant harassment and discrimination, restricting their use introduces a risk of the worker entering an excepted agreement under duress and coercion, or agree to terms that they might otherwise want to avoid if they had complete information to make an informed decision. The consultation seeks views on potential

⁴ [Contractual duties of confidentiality relating to harassment and discrimination Impact Assessment](#), DBT, 2025

⁵ [Non-disclosure agreements. Using non-disclosure agreements](#), Acas, 1 October 2025, accessed 8 December 2025

⁶ [The use of confidentiality agreements in discrimination cases](#), Equality and Human Rights Commission, October 2019

⁷ [SRA | Use of non-disclosure agreements \(NDAs\) | Solicitors Regulation Authority](#), 6 August 2024, accessed 8 December 2025

approaches to minimise the risks of a worker being coerced, giving a greater say in whether they want confidentiality and, if they do, a better understanding of what they are agreeing to.

6. Description of shortlisted policy options carried forward

28. Following appraisal of the long-list of policy options, the following was brought forward for consideration:

Preferred option – Restrict NDAs in cases of relevant harassment and discrimination

This proposed measure, together with the introduction of section 202A in the Employment Rights Act 1996, would limit the use of non-disclosure agreements in instances of relevant harassment and discrimination. Specifically, it would:

- Set out the specific conditions under which an NDA may still be valid (an excepted agreement);
- Establish a framework of permitted disclosures, identifying who a worker can still speak to even after signing an excepted agreement; and
- Consider whether the measure should in future apply to individuals beyond the standard definition of “worker” and “employee” in the Employment Rights Act 1996.

The accompanying consultation document seeks views on whether, and how each of the following elements should apply as well as stakeholder views on alternative approaches:

Conditions for an excepted agreement	Further options for consideration
<p>Independent advice: Before entering into an excepted agreement, the worker should have received independent advice in writing on the terms and effect of the proposed confidentiality obligations from a ‘relevant independent adviser’. A ‘relevant independent adviser’ could be a qualified lawyer, a fellow of the Institute of Legal Executives employed by a solicitors’ practice, an authorised officer of an independent trade union or a certified advice centre worker (e.g. from the Citizens Advice Bureau or a law centre). The government is considering if for the purposes of these regulations an “independent adviser” could also be defined to include an Acas conciliator. The adviser’s name would have to be included, and they would need to have indemnity insurance. This written advice should also explain the legal limitations of the NDA.</p>	N/A
<p>Worker expression of preference in writing: Before entering into an excepted agreement, a worker should express their preference in writing to enter into the agreement, following the receipt of</p>	<p>Employer suggesting confidentiality: This considers whether an employer should be permitted to suggest confidentiality.</p>

<p>independent advice. This would be expressed to their employer.</p>	
<p>Mandatory cooling off period: An excepted agreement would be required to include an explicit right for a worker to withdraw from the agreement without penalty within 14 calendar days of the agreement being entered into (i.e. a 'cooling off period'). The consultation also seeks views on whether a cooling-off period should be required only in respect of the confidentiality clauses in an excepted agreement.</p>	<p>Allow the worker to waive the cooling off period: There may be legitimate reasons why workers may want to waive the cooling off period. By allowing the worker to waive the cooling-off period this may help to facilitate an earlier settlement to claims, where this is the worker's preference.</p> <p>Shorten the cooling off period: We have proposed a 14-day cooling off period, but we could shorten it to 7 days or 10 days to better support the early settlement, whilst still providing additional protection for workers.</p> <p>Review period: A mandatory review period would provide workers with a set period to consider a proposed NDA <i>before</i> they agree to it.</p> <p>Cooling off and review period: This would allow the worker a set time to consider the proposed agreement before entering into it, followed by a cooling off period where they could withdraw from the terms of the signed agreement.</p>
<p>Written copy of excepted agreement: An excepted agreement should be provided to all parties in writing, and in a format accessible to the parties (worker and employer), including by any party with a disability. This will ensure that workers are able to refer back to the details of the agreement and check their understanding of it.</p>	<p>Plain language requirement: An excepted agreement should be written in standard, plain language.</p>
<p>Excepted agreement can only be entered into post incident: An excepted agreement cannot be entered into when it would prevent a worker speaking out about an incident (or alleged incident) of relevant harassment or discrimination which has not yet taken place</p>	<p>N/A</p>
<p>N/A</p>	<p>Time-limited excepted agreement: This would involve requiring an excepted agreement to stipulate a time-limit for which confidentiality obligations can be in place.</p>

Other elements of preferred option	Further options of consideration
<p>Permitted disclosures: The consultation seeks views on who a worker should be able to make disclosures to following the signing of an excepted agreement. This includes consideration of the following individuals or groups:</p> <ul style="list-style-type: none"> • Any person who has law enforcement functions. • A qualified lawyer or a registered foreign lawyer. • Any individual who is entitled to practise a regulated profession or a tax advisor, for the 	<p>Extension to other groups or relevant individuals: This could include prospective employers, or those outside of the employment relationship such as friends and wider family beyond close family members.</p>

<p>purposes of obtaining professional support in relation to relevant harassment and discrimination.</p> <ul style="list-style-type: none"> • Any individual or organisation who provides a service to support victims. • A regulatory body. • An individual or an organisation that provides services for the purpose of advising individuals on their employment rights, conciliation, arbitration and mediation as it relates to settlements. • A trade union representative accompanying workers in grievance and disciplinary cases, a trade union equality representative or a trade union representative authorised to give advice on settlement agreements. • A person who is authorised to receive information on behalf of a person specified in all of the above for the purposes mentioned. This could include a receptionist at a law firm who is allowed to receive information from prospective clients on behalf of lawyers in the firm, or an interpreter who is allowed to receive information on behalf of the police. • Close family members for the purpose of receiving support in respect to relevant harassment and discrimination. 	
<p>Application of Section 202A to individuals beyond the standard definition of worker: Section 202A will apply to agreements between employers and their workers. This will cover individuals who fall within the usual definition of “worker” in section 230(3) of the Employment Rights Act 1996, including employees and ‘limb(b)’ workers. The government is considering whether section 202A should, in the future, apply to other individuals not covered by the usual definition of worker who may be vulnerable to the misuse of NDAs in cases of relevant harassment and discrimination, including certain groups of self-employed.</p>	<p>N/A</p>

Small and Micro Business Assessment

29. The preferred option applies to businesses of all sizes, ensuring all workers are protected in cases of harassment and discrimination, regardless of employer size. As of early 2025, there are approximately 1.45 million businesses with employees in the UK, including around 1.4 million small and medium-sized enterprises and 11,000 large corporations (250+ employees)⁸. Additionally, about 4.2 million businesses have zero employees, with an estimated 1.1 million potentially in scope due to their use of contractors or agency staff⁹. Although smaller businesses are less likely to use NDAs because of simpler structures and fewer formal HR processes, exempting them would undermine the policy’s objectives by leaving some workers unprotected.

⁸ [Business population estimates 2025](#), DBT, 2025

⁹ This is subject to the final scope of the policy which is to be determined following consultation.

While these businesses may face relatively higher compliance costs, the broader societal benefits justify the inclusive scope. The accompanying consultation seeks feedback to balance worker protection with practical implementation for businesses of all sizes.

7. Regulatory scorecard for preferred option

30. 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 implementing and administering the policy, and the non-monetised costs and benefits that are likely to arise.
31. The direct monetary impact on businesses is expected to be negative and mainly driven by familiarisation and administration costs. However, the overall impact on businesses is uncertain because these may be offset by the positive impact on businesses through improved workplace culture, benefiting businesses in the form of reduced worker turnover, absenteeism and enhanced productivity. 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 relevant harassment and discrimination. Overall, it is uncertain whether 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.

Part A: Overall and stakeholder impacts

(1) Overall impacts on total welfare – categories	(1) Overall impacts on total welfare – qualitative and quantitative assessment and monetised estimates	Directional rating
Description of overall expected impact	<p>The direction of the overall impacts on businesses is uncertain. Negative monetary impacts on businesses are expected to be driven by the familiarisation and one-off implementation costs of the policy. In addition, in cases where an excepted agreement is pursued, businesses are assumed to incur costs from funding legal advice. However, they are also expected to benefit from a more transparent and inclusive workplace culture, improved employee trust and morale, and long-term retention that could arise as a result of the policy measure. On balance, it is unclear whether the benefits or costs to businesses will be greater.</p> <p>The impact on households is expected to be net positive and primarily driven by wellbeing benefits to workers, which refer to the improvements in an individuals' overall quality of life that are not directly financial in nature.</p> <p>Because of the nature of the benefits to households and the additional un-monetised impacts of the policy, it is not clear if the benefits will outweigh the costs.</p>	<p>Uncertain</p> <p>Based on all impacts (incl. non-monetised)</p>
Monetised impacts	The central estimate of the total net present social value of this policy is -£48.8m	Negative

	<p>Other key monetised impacts include estimated annual net direct cost to business (EANDCB) of £5.7m.</p> <p>Illustrative business costs include one-off familiarisation costs of £47.8m and one-off implementation costs of £2.4m.</p> <p>However, these should be interpreted as an upper-bound estimate. They reflect conservative assumptions about the number of businesses that will need to familiarise themselves with the policy measure, given the absence of robust data on NDA usage.</p> <p>Other costs include one-off familiarisation costs to employment lawyers of £0.3m, and one-off implementation costs to legal firms and HR consultancies of £0.2m.</p> <p>The estimated unit cost to the employer is £690 for the required legal advice on an excepted agreement, and £76 to the worker.</p>	<p>Based on likely £NPSV of -£48.8m</p>
<p>Non-monetised impacts</p>	<p>Significant non-monetised benefits of the policy overall include:</p> <ol style="list-style-type: none"> 1) Wellbeing benefit to workers from being able to speak openly about experiences of workplace harassment or discrimination, where they choose to. 2) Benefit to workers in strengthening their economic security, by reducing the economic harm NDAs may cause to workers. 3) Benefit to employers through improved workplace culture. <p>Non-monetised costs of the policy overall include:</p> <ol style="list-style-type: none"> 1) Cost to employers through reputational impacts businesses may face from public exposure of relevant harassment and discrimination. 2) Legal and administrative costs to employers from adapting operational processes to resolve cases of relevant harassment and discrimination internally. 3) Legal costs to employers to defend increased claims brought to Employment Tribunals. <p>In addition, we expect:</p> <ol style="list-style-type: none"> 1) Benefit to employers and cost to workers from potentially reduced settlement payouts. 2) Uncertain impact on workers from more harassment and discrimination cases entering Acas early conciliation or progressing to Employment Tribunals. Workers who bring forward valid claims may benefit from greater financial compensation. However, they may also face costs for bringing claims, which will include legal fees, time off work and emotional strain. <p>The overall directional impact of this policy on total welfare is uncertain.</p>	<p>Uncertain</p>

Any significant or adverse distributional impacts?	Potential distributional impacts on businesses and households are indicated in the sections below.	Uncertain
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(2) Expected impacts on businesses	2) Expected impacts on businesses – qualitative and quantitative assessment and monetised estimates	Directional rating
Description of overall business impact	<p>There will be a cost to businesses to familiarise themselves with the introduction of new legislation.</p> <p>Businesses will also incur one-off implementation costs associated with updating guidance and contract templates so they are in line with the new legislation.</p> <p>The policy could lead to an increase in the number of Acas and Employment Tribunal cases. Businesses may incur legal costs to defend these claims, as well as costs associated with early conciliation settlement and tribunal awards. The number of additional cases that may arise as a result of this policy is uncertain.</p> <p>A more transparent and accountable workplace culture may come about by restricting the use of NDAs in relation to relevant harassment and discrimination. This could benefit businesses in the form of reduced worker turnover, absenteeism and enhanced productivity.</p> <p>Therefore, the overall impact on businesses is uncertain.</p>	Uncertain
Monetised impacts	<p>Overall monetised impacts include net present value (NPV) to business of -£48.8m and approximate annual net direct cost to business (EANDCB) of £5.7m.</p> <p>Illustrative business costs include one-off familiarisation costs of £47.8m and one-off implementation costs of £2.4m.</p> <p>However, these should be interpreted as an upper-bound estimate. They reflect conservative assumptions about the number of businesses that will need to familiarise themselves with the policy measure, given the absence of robust data on NDA usage.</p> <p>Other costs include one-off familiarisation costs to employment lawyers of £0.3m, and one-off implementation costs to legal firms and HR consultancies of £0.2m.</p> <p>The proposed conditions for excepted agreements do not include requiring employers to cover the cost of independent advice, nor is this currently required. However, we recognise that employers often contribute to this cost and therefore the central estimate of the <i>expected</i> employer contribution to the unit cost of legal advice is £690. Due to a lack of comprehensive data on the number of NDAs used in cases of harassment and discrimination and uncertainties around how these volumes will change after implementation of the policy</p>	Negative Based on likely business £NPV of -£48.8m

	measure, we do not estimate the total cost across all employers.	
Non-monetised impacts	<p>Non monetised impacts include costs to employers through reputational impacts businesses may face from public exposure of harassment and discrimination. Employers may also face legal and administrative costs to defend increased claims brought to Employment Tribunals, and from adapting operational processes to resolve cases of harassment and discrimination internally. However, the additional costs of this are expected to be low due to existing processes and the low frequency of cases.</p> <p>Benefits to employers include improved workplace culture, potentially improving employee trust, morale, and long-term retention, and potentially reduced settlement payouts. It is unclear whether these benefits to employers will outweigh the costs.</p>	Uncertain
Any significant or adverse distributional impacts?	<p><u>Business size</u></p> <p>Smaller businesses are less likely to use NDAs in relevant harassment or discrimination cases, but uniform compliance costs may represent a higher share of their revenue. Micro and small firms are expected to have lower implementation costs by using free external advice or templates.</p> <p><u>Specific business sectors</u></p> <p>There is no comprehensive data on NDA use for relevant harassment and discrimination cases by sector, though some sectors where NDA use is concentrated may be disproportionately affected. Familiarisation and implementation costs are expected to apply to all businesses regardless of the frequency of NDA use.</p> <p><u>Regional impacts</u></p> <p>NDA use for relevant harassment and discrimination cases by region is unclear, but workplace discrimination rates are highest in London (57%), suggesting possible distributional impacts. Legal costs are also higher in London, meaning businesses covering full advice costs may face greater expenses.</p>	Uncertain

(3) Expected impacts on households	(3) Expected impacts on households – qualitative and quantitative assessment and monetised estimates	Directional rating
Description of overall household impact	<p>The policy is expected to provide positive wellbeing impacts to workers by preventing the misuse of NDAs to silence victims and allowing individuals with excepted agreements to seek support through permitted disclosures.</p> <p>Workers are expected to incur costs when seeking legal advice where the total sum is not covered by their employer. Where a worker is a member of a Trade Union, they may be able to secure advice from their union without incurring additional costs.</p>	Positive

<p>Monetised impacts</p>	<p>The conditions for excepted agreements do not propose to require employers to cover the cost of independent legal advice, nor is this currently required. However, we recognise that employers often contribute to this cost and therefore, adjusting for the <i>expected</i> employer contribution, our central estimate of the unit cost to the worker of the legal advice requirement is £76.</p> <p>Due to a lack of comprehensive data on the number of NDAs used in cases of relevant harassment and discrimination, and uncertainties around how these volumes will change after implementation of the policy measure, we do not estimate the total cost of this legal advice across all workers.</p>	<p>Uncertain</p> <p>Based on likely household £NPV</p>
<p>Non-monetised impacts</p>	<p>Non-monetised impacts include wellbeing benefits to workers from being able to speak more openly about experiences of workplace relevant harassment or discrimination, which may support emotional recovery and reduce feelings of isolation. They may also benefit from strengthened economic security, by reducing the economic harm NDAs may cause to workers.</p> <p>However, workers may also face costs from potentially reduced settlement payouts.</p> <p>Non-monetised impacts also include an uncertain impact on workers from more harassment and discrimination cases entering Acas early conciliation or progressing to Employment Tribunals. Workers who bring forward valid claims may benefit from greater financial compensation. However, they may also face costs for bringing claims, which will include legal fees, time off work and emotional strain.</p> <p>The wellbeing benefits to workers are expected to outweigh the costs.</p>	<p>Positive</p>
<p>Any significant or adverse distributional impacts?</p>	<p><u>Low income</u></p> <p>There is limited evidence on how NDAs in workplace harassment cases affect low-income groups. Low-income workers may be more likely to seek quick settlement agreements due to limited financial resilience for legal proceedings, therefore benefiting more from the policy's safeguards (the right to make permitted disclosures and the requirement for independent advice on NDAs). However, legal advice costs could impose a disproportionate burden on these groups where the cost is not covered by the employer.</p> <p><u>Other impacted groups</u></p> <p>There is no comprehensive data on the use of NDAs in cases of workplace harassment and discrimination and how this varies across groups. However, distributional impacts may vary with the prevalence of workplace discrimination across groups, assuming a correlation with NDA use. Survey evidence indicates that certain groups report higher rates of workplace discrimination, including ethnic minorities, non-binary individuals, women, disabled people and younger workers¹⁰. A summary of the available evidence is provided in</p>	<p>Uncertain</p>

¹⁰ [Workplace discrimination statistics in 2025 | Discrimination at work](#), Ciph, 2025
[Future of Work Report](#), Equality and Human Rights Commission, 2023

	<p>the sections below. These groups may therefore derive greater benefit from the policy measure.</p> <p><u>Regional impacts</u></p> <p>Similarly, while the use of NDAs in cases of workplace harassment and discrimination by region is unknown, survey data suggests that reports of workplace discrimination are highest in London (57%), followed by the North East, Scotland, and the South West (46%). Therefore, assuming a correlation with NDA use, workers in these regions may derive greater benefit from the policy measure.</p>	
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Part B: Impacts on wider government priorities

Category	Description of impact	Directional rating
<p>Business environment: Does the measure impact on the ease of doing business in the UK?</p>	<p>As the policy is not expected to have any impact on labour costs, impact on business investment and business environment is likely to be negligible.</p>	<p>Neutral</p>
<p>International Considerations: Does the measure support international trade and investment?</p>	<p>The policy is not expected to impact international trade as it is a minor practice which strengthens protections for workers and will not affect UK international competitiveness.</p>	<p>Neutral</p>
<p>Natural capital and Decarbonisation: Does the measure support commitments to improve the environment and decarbonise?</p>	<p>The policy is not expected to have any impact on the environment, natural capital and decarbonisation, either positively or negatively.</p>	<p>Neutral</p>

32. 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.

Costs and benefits to businesses

Monetised costs to businesses

Familiarisation costs

Employer familiarisation costs

33. 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).
34. We have used the 2025 DBT Business Population Estimates for the UK as the basis for the number of businesses in scope. Excluding those located in Northern Ireland, this results in an estimated 1,445,359 businesses with employees¹¹.
35. In addition, some businesses with zero employees that engage contractors or agency staff could fall within scope of this policy. Applying the proportion identified in the Longitudinal Small Business Survey¹² of zero-employee businesses that report having any contractor or agency staff (27%) to the total number of zero-employee businesses in the DBT Business Population Estimates¹³ (4,202,851 excluding NI) gives an estimated additional 1,121,984 businesses in scope. Adding this figure to the business population with employees gives a total of 2,567,343 businesses.
36. Whether businesses with zero employees are required to familiarise themselves with the policy will depend on whether the policy measure is extended to individuals who do not meet the standard definition of “worker” under Section 230(3) of the Employment Rights Act 1996. This is because broadening the scope may make, for example, certain contractors or agency staff eligible for protections, which would require their employer to be familiar with the requirements of the policy. The exact scope of the policy is to be defined in regulation following consultation. Therefore, our estimates are intended to be indicative of the potential population in scope and costs incurred by businesses.
37. It should be noted that the figure used is a conservatively high figure, as the use of NDAs is likely concentrated in specific sectors (e.g. culture, media, finance). In practice, employers are more likely to engage with guidance only where they expect to issue an NDA, rather than in response to the policy measure more broadly. However, due to the lack of robust data, the estimate is applied uniformly across all businesses in scope. As a result, this approach is expected to give an upper bound estimate of business familiarisation costs.
38. This options assessment uses the assumptions from the Confidentiality Clauses Impact Assessment¹⁴ published in 2019 as both policies address the misuse of NDAs in cases 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.

¹¹ [Business population estimates 2025](#), DBT, 2025

¹² [Small Business Survey 2024: businesses with no employees: Table 10 A2C](#), DBT, 2025

¹³ [Business population estimates 2025](#), DBT, 2025

¹⁴ [Impact Assessment: Confidentiality Clauses: measures to prevent misuse in situations of harassment or discrimination](#), BEIS, 2019

39. Labour costs for small and micro businesses familiarising themselves with the policy are estimated to be £37.29 while labour costs for medium and large businesses are estimated to be £36.23. Labour cost is calculated based on the median hourly wage rate of corporate managers and directors for small and micro businesses (£30.66) and human resource managers and directors for medium and large businesses (£29.79) from the 2025 Annual Survey of Hours and Earnings (ASHE)¹⁵. The wage is then uplifted by 22%, derived from the internal analysis of the UK Economic Accounts, to account for non-wage labour costs¹⁶.
40. For both small and micro businesses, and medium and large businesses, we assume one employee will spend 0.5 hrs familiarising themselves with the policy. Although other impact assessments, such as whistleblowing, assume one hour for familiarisation, it is expected that businesses will integrate their understanding of the policy alongside other measures included as a part of the government's Plan to Make Work Pay. As such, the time burden is likely to be lower when considered as part of a broader compliance effort.

Table 1: Employer familiarisation costs

**Numbers have been rounded for simplicity*

Business size	Familiarisation time (hours)	Median uplifted hourly wage	Number of businesses	Total cost
Businesses with zero employees <i>The estimated number of zero employee businesses who employ contractor or agency staff.</i>	0.5	£37.29	1,100,000	£20,900,000
Small & Micro businesses <i>Micro businesses have less than 10 employees. Small businesses have less than 50 employees.</i>	0.5	£37.29	1,400,000	£25,900,000
Medium & Large businesses <i>Medium businesses have 50-249 employees. Large businesses have 250 or more employees.</i>	0.5	£36.23	53,900	£1,000,000
Overall cost	Not applicable	Not applicable	Not applicable	£47,800,000

Employment lawyers' familiarisation costs

41. 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.
42. 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.

¹⁵ [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14](#), ONS, 2025

¹⁶ [UK Economic Accounts time series](#), ONS, 2025

43. The analysis also uses the 2025 ASHE hourly wage rates for solicitors or lawyers (£30.66) with an additional 22% applied to account for non-wage labour costs. We use the number of individuals listed on the Law Society’s Find a Solicitor database¹⁷ and have identified employment law as their main area of practice (around 14,000) as our estimate for the number of UK employment lawyers¹⁸. This includes in-house teams, government departments and other employers, as we assume that the familiarisation costs for these in-house lawyers are not covered in employer familiarisation costs, and removes any located in Northern Ireland.
44. 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 in disputes arising from or related to the policy change. Such benefits could partially offset the familiarisation costs but are not quantified due to uncertainty around their scale.

Table 2: Employment lawyers’ familiarisation costs

	Familiarisation time (hours)	Median uplifted hourly wage	Number of employment lawyers	Total cost
Best estimate	0.5	£37.29	14,000	£300,000

**Numbers have been rounded for simplicity*

Implementation costs

Employer one-off implementation costs

45. The other costs that have been monetised are the employer one-off implementation costs associated with updating internal guidance and contract templates so they are in line with the new legislation. 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.
46. Employers are expected to incur implementation costs irrespective of the conditions under which an NDA may still be valid (an excepted agreement). This is because the administrative task of updating internal guidance and contract templates will be required in all policy scenarios considered once legislation is introduced. While the detail, such as the conditions of excepted agreements or permitted disclosures, may influence the application of NDAs, they are not expected to have a substantial impact on the implementation costs that arise from the need to update templates to be compliant with the legislation.
47. As in the previous impact assessment, we rely on the assumptions set out in the 2019 Confidentiality Clauses Impact Assessment. For micro and small businesses, we assume they do not have dedicated in-house HR resources and instead are likely to rely on free external HR or legal advisers, or templates when preparing employment contracts or settlement agreements. As a result, we do not expect micro and small businesses to incur any implementation costs related to updating internal HR processes or documentation. This approach aligns with guidance from the Chartered Institute of Personnel and Development (CIPD), which notes that very small organisations – typically those with fewer than 50 employees – often do not require a dedicated HR professional, with HR responsibilities usually managed alongside other roles¹⁹. This assumption is further supported by evidence from the 2013 Survey of Employment Tribunal

¹⁷ [The Law Society](#), 2025.

¹⁸ *Find a Solicitor* aims to include all SRA-regulated law firms, individuals and organisations that contain regulated individuals who choose to be listed. However, it also lists non-solicitors who are members of the Law Society’s accreditations. This is a live database so is subject to change.

¹⁹ [Working as a people professional in a small organisation](#), CIPD, 2025

Applications, which found that large and medium-sized businesses are much more likely to have an internal HR department than small or micro businesses²⁰.

48. We assume that any employers with zero employees potentially brought into scope of the policy through the application of Section 202A to individuals beyond the standard definition of worker would fall into the category above (small and micro businesses) and incur no implementation costs related to updating internal HR processes or documentation.
49. 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 their organisation. This is an upper bound approach, as some of these employers may use general templates rather than firm-specific ones.
50. Based on the 2019 Confidentiality Clauses Impact Assessment, we assume that in a medium sized business it would take 1 hour of an HR director or manager’s time to update their templates (median hourly wage of £29.79). In a large business, we assume that 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 documents.

Table 3: One-off implementation costs for medium and large businesses

**Numbers have been rounded for simplicity*

Business size	Implementation time (hours)	Median uplifted hourly wage	Number of businesses	Total cost
Medium businesses	1	£36.23	40,000	£1,500,000
Large businesses	2	£36.23	10,000	£800,000
Overall cost	Not applicable	Not applicable	Not applicable	£2,400,000

Legal businesses and HR consultancies implementation costs

51. Legal businesses dealing with employment law and HR consultancies will also incur implementation costs in addition to those incurred by medium and large businesses. These organisations will need to update the external templates and resources they provide to clients – including free templates made available online – to ensure they reflect the new legislation. These costs are separate from employer’s implementation costs, as they relate to updating materials used by clients rather than internal HR documentation. In line with the 2019 Confidentiality Clauses Impact Assessment, we estimate that it would take 1 hour of staff time to do this, either at the median hourly wage for a legal professional (£27.35) or an HR director or manager (£29.79), which is then uplifted by 22% to account for non-wage labour costs.
52. 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 businesses²¹. We are unable to remove businesses in Northern Ireland from this, so this presents an upper bound estimate. For legal businesses, we take the number of organisations listed on the Law Society’s Find a Solicitor database²² and have identified employment law as their main area of practice (around 4,000) as our estimate for the number of legal businesses²³. This excludes in-house teams, government departments and other employers, as we assume

²⁰ [Survey of Employment Tribunal Applications](#), BIS, 2013

²¹ [Non-financial business economy, UK: Sections A to S](#), ONS, 2025

²² [The Law Society](#), 2025.

²³ *Find a Solicitor aims to include all SRA-regulated law firms, individuals and organisations that contain regulated individuals who choose to be listed. However, it also lists non-solicitors who are members of the Law Society’s accreditations. This is a live database so is subject to change.*

that the implementation costs for these in-house lawyers are covered in employer implementation costs, and removes any located in Northern Ireland.

53. In addition to the proposed requirement for an excepted agreement to be provided in writing to all parties, the proposal is that it must also be in a format accessible to all parties, including any party with a disability. The consultation also seeks views on whether to require the agreement to be written in standard, plain language. We do not expect either of these requirements to increase the implementation costs incurred to legal businesses and HR consultancies. Instead, we assume that these requirements would be covered within the time estimated to update client materials above.
54. We do not estimate implementation costs for employment lawyers in this options assessment as most employment lawyers will be employed by legal firms (or medium and large employers) rather than self-employed. Therefore, they will likely use the firms' templates and their implementation costs will largely be accounted for by estimates for legal firms. Any costs that are not accounted for by estimates for legal firms are expected to be reflected in familiarisation costs for employment lawyers estimated above.

Table 4: One-off implementation costs for law firms and HR consultancies

**Numbers have been rounded for simplicity*

Business type	Implementation time (hours)	Median uplifted hourly wage	Number of businesses	Total cost
Legal businesses	1	£33.26	4,000	£100,000
HR consultancies	1	£36.23	2,000	£90,000
Overall cost	Not applicable	Not applicable	Not applicable	£200,000

Legal advice costs

55. A proposed condition for an excepted agreement is that a worker must receive written advice from a relevant independent adviser on the terms and effect of the agreement for it to be valid. An adviser can be a qualified lawyer, a fellow of the Institute of Legal Executives employed by a solicitors' practice, an authorised officer of an independent trade union or a certified advice centre worker (e.g. from the Citizens Advice Bureau or a law centre), and may be required to advise on 1) the terms and effect of the proposed NDA, and 2) the legal limitations of the NDA. The adviser's name would have to be included, and they would be required to have indemnity insurance.
56. Many NDAs are contained within settlement agreements²⁴. While we cannot estimate the scale of these legal advice costs, the Employment Rights Act 1996 and the Equality Act 2010 already require that workers receive independent advice on the terms and effect for a settlement agreement to be valid, which is likely to already include advice on any confidentiality clauses (NDAs) in the agreement. Therefore, in these cases, there may be minimal additional costs for the independent advice necessary to ensure the settlement agreement also meets the conditions to be an excepted agreement.
57. As previously noted, there is currently no comprehensive data on the number of NDAs used in cases involving workplace harassment or discrimination. Therefore, we cannot calculate the overall cost of this advice requirement. Instead, we have calculated illustrative unit costs of this legal advice using solicitors' rates as an upper bound estimate, given that advice could be given by a trade union officer or advice centre worker, which would be at a lower cost.

²⁴ [Confidentiality - Settlement agreements - Acas](#), Acas, 2025

58. To calculate unit costs of this legal advice, we take the median of London and National pay bands from Solicitors' Guideline Hourly Rates²⁵ to get a single hourly rate for London and National solicitors at each grade. Grade D solicitors (Trainee solicitors, paralegals and other fee earners) have been removed from estimates as legal advice must come from a qualified solicitor.

59. These hourly rates are used to calculate unit costs for London and National solicitors at each grade, based on a time spent per case of 2 hours, in Table 5. This is based on guidance that indicates that two hours of legal advice is typically necessary to 1) review the terms and effect of an agreement, 2) advise on any potential claims or risks and 3) finalise and sign the agreement²⁶.

Table 5: Cost of legal advice based on 2 hours of solicitors' hourly rates

Estimate	Low	Central	High
Solicitor Grade	Grade C <i>Other solicitors or legal executives and fee earners of equivalent experience</i>	Grade B <i>Solicitors and legal executives with over 4 years' experience</i>	Grade A <i>Solicitors and legal executives with over 8 years' experience</i>
London	£538	£638	£826
National	£393	£484	£570

60. The conditions for excepted agreements do not propose to require employers to cover the cost of this independent advice, nor is this currently required. However, in practice, an employer will likely contribute towards legal fees as it is in their interest for the excepted agreement to be legally valid. Based on guidance of typical employer contributions to settlement agreement legal fees²⁷, we calculate a range of estimates of the unit cost of this contribution in Table 6. It is important to note that these figures are illustrative examples of what the employer contribution should be, with the central estimate reflecting the market standard and the high estimate covering the recommended 2 hours of legal advice. However, anecdotally employers tend to offer below this amount, with many expecting the worker to seek out legal advice at a lower rate.

Table 6: Estimated employer contribution to settlement agreement legal fees

Estimate	Low	Central	High
Guide cost	£350-£400 +VAT	£500 +VAT	£550-£600 +VAT
Monetised cost	£375	£500	£575
VAT (20%)	£75	£100	£115
Estimated total employer contribution	£450	£600	£690

61. To calculate a best estimate of the total unit cost and the burden on each of the employer and worker, we apply the high estimate of the estimated employer contribution in Table 6 to total unit costs as an upper bound estimate due to this being the best reflection of 2 hours of legal advice. We also apply the low, central and high estimates from Table 5 for London only as an upper bound estimate due to the higher rates of legal advice.

Table 7: Unit costs of legal advice

Best Estimate			
Solicitor Grade	Grade C <i>Other solicitors or legal executives and fee earners of equivalent experience</i>	Grade B <i>Solicitors and legal executives with over 4 years' experience</i>	Grade A <i>Solicitors and legal executives with over 8 years' experience</i>
London	£538	£638	£826
VAT (20%)	£108	£128	£165
Total unit cost	£646	£766	£991

²⁵ [Solicitors' guideline hourly rates](#), HM Courts & Tribunals Service, 2025

²⁶ [How Much Should Employers Pay for Settlement Agreement Legal Fees? | Expert Guide for UK Employees](#), Kalra Legal Group, 2024

²⁷ [How Much Should Employers Pay for Settlement Agreement Legal Fees? | Expert Guide for UK Employees](#), Kalra Legal Group, 2024

Cost to employer	£646*	£690	£690
Cost to worker	£0	£76	£301

*Where employer contribution exceeds the total unit cost, the cost to employer figure has been reduced to match the total unit cost.

Overall costs

Monetised costs	Best estimate
Employer familiarisation costs	£47,800,000
Employer one-off implementation costs	£2,400,000
Employment lawyers' familiarisation costs	£300,000
Legal firms and HR consultancies' one-off implementation costs	£200,000
Total costs	£50,700,000

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

Non-monetised costs to businesses

Reputational damage

62. The proposed policy may increase public disclosure of harassment and discrimination allegations, potentially resulting in reputational costs for businesses. These costs do not include cases where a business is found at fault, as such costs arise from non-compliance (e.g., inadequate safeguarding or training).
63. Even where businesses have effective safeguards, false allegations or inappropriate actions by workers can still damage a company's reputation. Reputational harm can lead to loss of client and consumer trust, reduced business activity, and increased staff turnover, which may drive up recruitment costs, especially if external hiring is already challenging.
64. A 2014 Deloitte survey of over 300 executives²⁸ highlighted the significance of reputational risk: 87% rated it as more important than other strategic risks, and 88% said their companies actively manage it.
65. It is important to note that the policy does not guarantee more workers will speak out or that transparency will increase, as valid NDAs will still be permitted under certain conditions. Additionally, even if an NDA is void, workers may still choose not to disclose their experiences.

Operational processes

66. If NDAs are no longer readily available to resolve cases of relevant 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.
67. 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 practices, and

²⁸ [2014 Global Survey on Reputation Risk](#), Deloitte, 2014

will ultimately be driven by employers' own assessment of reputational, legal and financial interests.

Employment Tribunals & Acas conciliation

68. By making it more difficult for employers to use NDAs in relation to relevant harassment and discrimination, fewer allegations of harassment and discrimination may be resolved through settlement agreements. This, in turn, may lead to an increase in more cases being referred to Acas and brought before the Employment Tribunals. Businesses may incur legal costs to defend these claims, as well as costs associated with early conciliation settlements and employment tribunal awards.
69. 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.
70. Latest tribunal statistics obtained from the Ministry of Justice state that 14,809 Employment Tribunal claims for discrimination or harassment were made in 2024/25²⁹. 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.

Non-monetised benefits to businesses

Workplace culture

71. Limiting NDAs in cases of harassment and discrimination can create a more transparent and accountable workplace. Visible employer commitment to addressing these issues builds worker trust and encourages a safer, more open environment. This approach also deters potential misconduct and helps reduce future incidents and related business costs.
72. Fostering a transparent and safe culture could also benefit businesses in the form of reduced worker turnover, absenteeism and enhancing productivity.

Financial settlements

73. 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.
74. Settlement payouts to workers may decrease under the new regulations. This could occur if employers pass on additional compliance costs, such as legal advice fees, to workers, or due to the potential reduction in assurance of confidentiality following the introduction of a broader set of individuals a worker can make a permitted disclosure to. However, current guidance already advises that NDAs should allow workers to make disclosures for professional advice and support, so employers engaging in best practice may have already taken this into account when determining settlement amounts.
75. The extent to which employers pass through costs and how this impacts settlement payouts is highly uncertain and is not estimated in this options assessment. Any impacts on financial settlements would be NPV neutral as they are an economic transfer from businesses to households – a reduction in payments represents a benefit to businesses and a cost to households.

²⁹ [Tribunals statistics quarterly: January to March 2025 \(Table ET_1_R\)](#), Ministry of Justice, 2025

Significant or adverse distributional impacts to business

Business size

76. 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.
77. The estimates for familiarisation costs and legal advice estimated in this options assessment are expected to be uniform for all businesses, which may make up a larger proportion of revenue for smaller businesses.
78. However, our estimates suggest lower implementation costs for micro and small businesses because they will be more likely to make use of their external HR or legal advisor, or will use the free templates when writing employment contracts or settlement agreements.

Specific business sectors

79. There is no comprehensive data on the use of NDAs in cases of workplace harassment and discrimination and how this varies across business sectors. However, there may be disproportionate impacts on specific sectors where NDA use is concentrated.
80. The familiarisation and implementation costs of the policy are expected to apply to all businesses, irrespective of how frequently NDAs are used.

Regional impacts

81. There is no comprehensive data on the use of NDAs in cases of workplace harassment and discrimination and how this varies across regions.
82. A 2025 survey commissioned by Ciphir asked respondents whether they experienced work-related discrimination, either at work, when applying to jobs, or both. Broken down by UK regions, this data suggests that the region with the highest rates of workplace discrimination was London (57%), followed by the North East, Scotland and the South West (46%)³⁰. Therefore, there may be some distributional impacts by region insofar as the prevalence of the use of NDAs is correlated with the prevalence of workplace discrimination.
83. Data on the guideline hourly rates for solicitors from the HM Courts & Tribunals Service suggests higher rates in London compared to national rates. As noted in paragraph 60, we do not propose, nor is it currently required that employers cover the cost of legal advice – but in practice, an employer is likely to contribute. The analysis in this options assessment assumes that the proportion of the cost covered by employers will be the same for all businesses. However, in cases where the employer chooses to cover the full cost of legal advice, businesses operating in London will incur a higher cost compared to businesses outside of London due to regional differences in solicitor rates.

Costs and benefits to households

84. 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

³⁰ [Workplace discrimination statistics in 2025 | Discrimination at work](#), Ciphir, 2025

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.

85. Impacts on workers will include potential benefits to 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. This, in turn, can foster a safer and more supportive workplace, especially for individuals who may be vulnerable to harassment or discrimination.

Monetised costs to households

Legal advice costs

86. The conditions for excepted agreements do not require employers to pay for independent advice, nor is this currently required. Adjusting for the expected employer contribution outlined in Monetised Costs to Businesses, our central estimate of the unit cost of legal advice requirement is **£76** for the worker.
87. However, it should be noted that where a worker is a member of a trade union, they may be able to obtain this advice directly from their union, meaning that they would likely not incur additional costs.

Non-monetised costs to households

Financial settlements

88. The policy measure may result in a reduction of settlement payments to workers (see paragraph 73 for a full explanation).
89. Any impacts on financial settlements would be NPV neutral as they are an economic transfer from businesses to households - a reduction in payments represents a benefit to businesses and a cost to households.

Non-monetised benefits to households

Wellbeing benefits

90. 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) report³¹ 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.
91. 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.

³¹ [The use of non-disclosure agreements in discrimination cases](#), House of Commons Women and Equalities Committee, 2019

92. Restricting the use of NDAs as a way to silence workers from disclosing cases of workplace discrimination or harassment therefore gives potential for significant positive benefits for 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.
93. The proposal to provide for permitted disclosures for workers that have signed an excepted agreement would allow workers to seek advice or support in respect of relevant harassment and discrimination. This may include close family members or support services that provide support related to effects of harassment and discrimination, such as a health and care professional or counsellor. This, in turn, may help victims recover from experiences of harassment and discrimination and contribute to improving their wellbeing.
94. 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 completely 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

95. The UK Parliament Women and Equalities Committee (2019)³² 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)³³ further supports this, arguing that NDAs suppress the economic agency of workers, particularly those in underrepresented groups such as women and individuals from ethnic minority backgrounds.
96. If the conditions for an excepted agreement safeguard against workers being pressured into signing NDAs, where they have been a victim of relevant 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 practices, 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.

Other non-monetised impacts to households

Acas services and Employment Tribunals

97. The proposed policy may potentially result in more harassment and discrimination cases entering Acas early conciliation and, where resolution is not reached, proceeding to Employment Tribunals. Workers who bring forward successful 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 Table 8 below.

Table 8: Compensation awarded by Tribunals, by jurisdiction 2023/24³⁴

Claim Jurisdiction	Mean Award	Median Award
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³² [The use of non-disclosure agreements in discrimination cases](#), House of Commons Women and Equalities Committee, 2019

³³ [Silencing at Work: Sexual Harassment, Workplace Misconduct and NDAs](#), Barmes, L., 2019

³⁴ [Employment Tribunal and Employment Appeals Tribunal Annual Tables](#), Ministry of Justice, 2024

Race Discrimination	£29,500	£10,300
Sex Discrimination	£53,400	£16,200
Disability Discrimination	£44,500	£17,200
Religious Discrimination	£10,750	£8,500
Sexual Orientation Discrimination	£27,100	£26,700
Age Discrimination	£102,900	£86,300

98. However, it should be noted workers may also face costs for bringing 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.
99. Additionally, taking a claim to the Employment Tribunal may result in more or less compensation than the worker may be offered by their employer in a settlement agreement, and we cannot determine which would be more likely.

Significant or adverse distributional impacts to households

Low income

100. There is no comprehensive data on the use of NDAs in cases of workplace harassment and discrimination and how this varies across income groups.
101. Lower income groups may be more likely to seek settlement agreements to resolve workplace disputes quickly, as they often have less financial resilience to pursue lengthy legal proceedings. The proposed policy's safeguards (for example, the right to make permitted disclosures and the requirement for independent advice on NDAs) offer these workers greater protection against being unfairly silenced and ensure they understand their rights. As a result, lower income workers stand to benefit most from these provisions, which help them access support and make informed decisions about confidentiality agreements.
102. However, where the cost of independent advice is borne on workers, there could be a greater cost to low-income groups. There is insufficient evidence to determine the directional impact on lower income groups.

Other impacted groups

103. There is no comprehensive data on the use of NDAs in cases of workplace harassment and discrimination and how this varies across groups. Distributional impacts on households may vary with the prevalence of workplace discrimination experiences across groups, assuming that they are correlated. A summary of available evidence on experiences of workplace discrimination is provided below.
104. Ciphr, a HR and payroll software provider, conducted a survey of 4,000 adults in 2024³⁵. It found that over two fifths (45%) of UK adults say they have experienced some form of workplace discrimination – either in the workplace (38%) or when applying for new jobs (39%) or both. In addition, they also found the following:
- **Race:** Over two-thirds (69%) of ethnic minority respondents (excluding white minorities) reported experiencing discrimination at work (61%) or while job hunting (65%) or both. With nearly a third (29%) reporting that they believe their race or ethnicity impacted their chances of getting hired.

³⁵ [Workplace discrimination statistics in 2025 | Discrimination at work](#), Ciphr, 2025

- **Age:** Ageism is the most commonly reported form of discrimination. Around one in seven (15%) adults reported that they feel their age was a barrier to employment, while 8% reported experiencing age-based discrimination or being treated differently because of their age at work. In addition, young workers (18-34 years old) are disproportionately affected, with 59% saying they've encountered hiring discrimination and 57% experiencing workplace discrimination – compared to 31% for those aged 35 and older.
- **Sex:** Women are almost twice as likely as men to report feeling discriminated against because of their gender. On average, around one in seven (15%) women in the UK say they've experienced sexism in their working lives, compared to one in twelve (8.5%) men.
- **Gender:** Non-binary individuals face even higher levels of discrimination, with nearly three-quarters (73%) of surveyed non-binary people reporting experiences of workplace discrimination or hiring bias.
- Data is limited on other protected characteristics. However, in reporting prevalent types of work-related discrimination in the UK (impacting people at work or when job hunting), Ciphre report:
 - Disability discrimination (8.2%)
 - Religion or belief discrimination (6.1%)
 - The most prevalent reasons are: age discrimination (19%), appearance discrimination (13%) and gender discrimination (12%).

105. The Equality and Human Rights Commission (EHRC) commissioned the Learning and Work Institute (L&W) to produce a report on the Future of Work³⁶ in 2023. The research explored the impact of the increasing uptake of flexible work, self-employment and the gig economy on workers with particular protected characteristics. This included disabled people, some ethnic minorities, younger and older people, and women.

106. It found that structural barriers in the labour market, such as unequal opportunities, may increase the likelihood of becoming self-employed, and that the disproportionate increase in self-employment among ethnic minorities could be a result of discrimination faced in traditional jobs. The report also highlighted that pursuing flexible work or self-employment could be a choice necessitated by the fact that disabled people are discriminated against in mainstream employment. It is possible that the policy proposals covering the application to other individuals that do not meet the standard definition of 'worker' in the Employment Rights Act 1996 could have a positive impact on the individuals with protected characteristics highlighted in the Future of Work report.

Regional impacts

107. We do not know how the use of NDAs in cases of workplace harassment and discrimination varies across regions. Therefore, there may be some distributional impacts by region insofar as the prevalence of the use of NDAs is correlated with the prevalence of workplace discrimination and harassment. Workers in these regions may derive greater benefit from the policy measure (see paragraph 81 above for more detail).

Business environment

108. As the policy is not expected to have any impact on labour costs, it is not expected to have a significant impact on business investment and business environment.

³⁶ [Future of Work Report](#), Equality and Human Rights Commission, 2023

109. The main costs to business are transition costs. Businesses not using NDAs are not expected to incur ongoing costs from the policy measure.
110. Increased burden on businesses can result in lower aggregate investment. In contrast, a more transparent and inclusive workplace culture, improved employee trust and morale, and long-term retention could result in additional investment. Both these effects are expected to be negligible.

Trade implications

111. The policy is not expected to impact international trade as it is a minor practice which strengthens protections for workers and will not affect UK international competitiveness
112. The policy is compliant with international obligations and does not have any implications for trade partners.

Environment: Natural Capital Impact and Decarbonisation

113. The policy is not expected to have any impact on the environment, natural capital and decarbonisation, either positively or negatively. The regulation does not directly relate to environmental or decarbonisation goals.

Other wider impacts

Acas services and Employment Tribunals

114. 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 remains available where it is the worker's expressed preference and subject to consultation, the reduced ability for some employers to insist a worker signs an NDA because of the new protections put in place may lead to more disputes progressing to formal resolution channels (as they may be harder to resolve privately). As a result, demand for Acas early conciliation services and Employment Tribunal hearings could increase, though the scale of this change is uncertain.
115. In response to the policy measure, some employers may choose to remove NDAs or confidentiality clauses from agreements altogether, or limit them to commercial matters only, potentially reducing the number of related cases coming through early conciliation. It is uncertain to what extent this may affect the overall directional impact on demand for Acas early conciliation services.
116. Any additional costs to the public sector from increased Acas notifications or tribunal claims will depend on the number of new claims submitted. This options assessment does not estimate the volume of additional claims following implementation of the policy measure, given the uncertainty surrounding potential behavioural responses. Instead, the table below sets out the estimated average cost of an Acas early conciliation and an Employment Tribunal case for the public sector³⁷.

³⁷ [ACAS Annual report and accounts 2024 to 2025](#), Acas ; DBT internal analysis of [Introducing fees in the Employment Tribunals and the Employment Appeal Tribunal](#), MOJ

Estimate	Acas Claims	ET Cases
Average legal cost of one case	£176	£2,690

117. Acas provides a dispute resolution service for workers and employers to help them reach settlements before or after starting proceedings in the employment tribunal. In 2023-24, Acas reported receiving 104,884 early conciliation notifications³⁸. Of these, an estimated 20,067 cases were resolved through a formal conciliation agreement (COT3), while a further 56,827 cases did not progress to an Employment Tribunal for reasons other than a COT3 settlement. Acas estimates that 39,283 cases were prevented from progressing to tribunal as a direct result of its intervention, highlighting the role of early conciliation in resolving disputes before formal litigation.
118. The impact of the policy measure on Acas and the tribunals will also depend on whether the proposed conditions for excepted agreements apply to Acas-facilitated settlements as well as to private settlement agreements. In addition to uncertainty surrounding potential changes in case volumes, there is currently no data on the number of conciliation agreements related specifically to harassment or discrimination, nor on the prevalence of NDAs within COT3 agreements. As a result, a monetised estimate of the impact on Acas and tribunal caseloads is not provided at this stage. Instead, a qualitative assessment – reflecting that the application of excepted agreement conditions to Acas-facilitated agreements is being considered at this stage - is set out below. Subject to consultation responses, this analysis may be developed further and updated in the final impact assessment.

Description	Public Sector Financial Costs
<p>Application of excepted agreement conditions to Acas: NDAs included in settlement agreements facilitated by the Advisory, Conciliation and Arbitration Service (Acas), such as COT3 agreements could be subject to the following: independent advice; requirement for a worker to express their preference in writing; the proposed cooling-off period requirement; requirement for a written copy of excepted agreement and that an excepted agreement can only be entered into post incident:</p>	<p>Applying the conditions for the independent advice requirement, the requirement for a worker to express their preference in writing, and the proposed cooling-off period to excepted agreements included in Acas facilitated agreements is likely to increase administrative demands on Acas. Acas may need to update operational guidance, provide additional training to conciliators, and amend case management processes to ensure compliance with the regulatory conditions. This could increase staff time per case, particularly where conciliators must manage cases that remain open during a cooling-off period.</p> <p>However, these requirements are not expected to require substantive structural changes to Acas operations, and the overall scale of impact is expected to be manageable.</p> <p>There is also a risk that the introduction of a cooling-off period could create delays in finalising settlements, particularly in cases resolved close to tribunal hearing dates. Where agreements are withdrawn during the cooling-off period, cases may proceed to tribunal, increasing downstream costs for HMCTS and potentially extending Acas involvement.</p>

³⁸ [Estimating the economic impact of Acas services: individual and collective conciliation, 2023 to 2024](#), Acas

119. Acas and Employment Tribunals are not expected to be impacted by the potential broadening of scope of the policy measure to cover individuals beyond the standard definition of worker. This is because individuals who are not workers, and their employers, will need to bring claims before the civil courts rather than an Employment Tribunal. Any dispute about the validity of an NDA after it has been entered into would also need to be brought in the civil courts because only employees can bring contract claims in an Employment Tribunal.
120. Given that a million judgments are taken in the civil courts annually³⁹, the overall impact on these courts as a result of the policy measure is expected to be negligible.

Support organisations

121. There is a potential for increased demand on support services insofar as workers feel more able to disclose experiences of workplace harassment and discrimination to such organisations under an excepted agreement. These services could then experience higher caseloads or additional requests for advice and support.
122. While the policy would enable workers to disclose to specified services, this would be at their discretion, and they would not be compelled to do so. Given that those included in permitted disclosures are subject to the outcome of consultation and the uncertainties around the extent to which there may be additional demand on these services, this options assessment does not monetise this impact.

8. Monitoring and evaluation of preferred option

123. The Department for Business and Trade will lead on all monitoring and evaluation activities.
124. The government intends to undertake proportionate monitoring and evaluation of this measure. The intention is to lay new regulations before the end of 2026. To determine whether the policy has met its objectives, a review of the policy will take place within five years of implementation, when the policy has had time to be sufficiently established.
125. Section 4 contains a Theory of Change which includes high-level expected activities, outputs, outcomes and impacts of the proposed policy. This will form the basis for the Post-Implementation Review (PIR).
126. The objective of the review would be to assess the effectiveness of the policy in achieving the following:
- a) Reducing the misuse of NDAs in cases of workplace harassment and discrimination
 - b) Improving worker understanding and informed consent in relation to confidentiality agreements
 - c) Ensuring workers who sign excepted agreements can seek support through permitted disclosures
 - d) Extending protections appropriately to individuals beyond the “worker” definition (if implemented)
 - e) Any unintended consequences or distributional impacts.
127. As noted in Section 7, there are no regular data sources on the prevalence of NDAs in cases of harassment and discrimination that can directly inform the effectiveness of the policy. Therefore, monitoring will primarily be through new data collection.

³⁹ [Justice spending in England and Wales](#), Institute for Fiscal Studies, 2025

128. The table below outlines some of the potential data sources that could be used to evaluate the policy measure. These are non-exhaustive and subject to change.

Sources (non-exhaustive) – new data collection	Sources (non-exhaustive) – drawing from existing data sources
<ul style="list-style-type: none"> Stakeholder feedback 	<ul style="list-style-type: none"> Employment Tribunal statistics External surveys and publications on harassment and discrimination in the workplace. For example, this may include updated workplace discrimination statistics from Ciph or TU reports. Explore adding questions to departmental surveys

129. The government will seek to gather feedback from a range of stakeholders on the policy measure to ensure impacts across all affected groups are considered. This will include engagement with representatives of employer and employee groups. We also intend to gather intelligence from Acas and Employment Tribunals on cases brought forward for harassment or discrimination.

130. Below is a list of high-level evaluation questions that could be asked to employee groups to assess whether the anticipated outcomes as set out in the Theory of Change and SMART objectives have been achieved, and the extent to which the measure has led to any unintended consequences. Please note: the questions outlined are provisional and would be subject to revision pending the final policy implemented (including consultation feedback):

Objective 1 - Reduce the misuse of NDAs in cases of workplace harassment and discrimination

- Has the use of NDAs that restrict disclosures of relevant harassment or discrimination decreased?
- Have employer practices changed in how NDAs are proposed and used in these cases?

Objective 2 - Improve worker understanding and informed consent in relation to confidentiality agreements

- Do workers understand their rights and the implications of entering an excepted agreement, including who they can speak to?
- Did workers receive independent written advice and adequate time before deciding whether to sign an excepted agreement?
- Do workers feel the decision to enter an excepted agreement reflected their own preference rather than employer pressure?

Objective 3 - Ensure workers who sign excepted agreements can seek support through permitted disclosures

- Do workers know who they can disclose information to after signing an excepted agreement?
- Are permitted disclosure organisations reporting changes in disclosure patterns (e.g., increased requests for support)?

- Are there any operational challenges for those organisations receiving permitted disclosures?

Objective 4 - Extend protections appropriately to individuals beyond the “worker” definition (if implemented)

- Has the policy improved protections and the understanding of rights for those outside the standard “worker” definition (e.g., some self-employed individuals)?
- Have any unintended burdens or gaps emerged for these groups?

Cross-cutting outcomes and impacts (applicable across all SMART objectives)

- How has the policy affected workplace culture and reporting behaviours?
- What unintended consequences have occurred, including disproportionate costs for businesses or workers, or pressures on dispute resolution bodies?

131. We will also need to evaluate the economic impact of the Act measure, including its costs and benefits. These questions will vary depending on the final scope of the evaluation, though this is expected to include:

- What costs have been incurred to employers?
- What benefits have been generated by the implementation of this policy measure for employers?
- What benefits have been generated by the implementation of this policy measure for workers?
- What is the nature and scale of the costs incurred by businesses?
- What is the nature and scale of the costs incurred to the wider economy as a result of this policy measure?

132. To note, the questions above are intended to be indicative of the key areas to be covered in the PIR. Both the wording and contents are subject to change and further developments – they are not the final questions that will be asked.

133. The final questions could be asked in a roundtable with key stakeholders or be disseminated in a bespoke survey, either carried out by the department or commissioned externally. The appropriate approach will be determined by taking proportionality and feasibility into account.

134. We will continue to explore developments to our monitoring and evaluation plans based on HMT Green Book / Magenta Book guidance. Government are undertaking a coordinated programme of monitoring and evaluation for the full package of policies introduced through the Employment Rights Act 2025, drawing on both top-down and bottom-up approaches to evaluation. Individual policy-level monitoring and evaluation plans will form part of, and feed into, this overarching framework, ensuring that evidence generated for each measure contributes to understanding the effectiveness of the package as a whole. The activities discussed in this section are therefore intended to complement and align with these wider plans, while ensuring that the level of analysis remains proportionate to the expected magnitude of the policy impacts.

9. Minimising administrative and compliance costs for preferred option

135. The consultation seeks views on striking the right balance between protecting workers from misconduct in the workplace and ensuring that the framework works effectively for businesses of

all sizes. To minimise administrative and compliance burden, the proposed measures are intended to be proportionate and draw on and account for existing processes.

136. Businesses that do not use NDAs in cases of workplace harassment and discrimination will not incur additional administrative costs outside of transition costs. The transition costs of the policy are the familiarisation and implementation costs. They are expected to be moderate as employers will familiarise themselves with this policy measure alongside other measures as a part of the government's Plan to Make Work Pay.
137. Micro and small business are not expected to face implementation costs from updating templates or processes, as they typically will make use of their external HR or legal advisor, or will use the free templates when writing employment contracts or settlement agreements.
138. The proposals featured in the consultation avoid introducing additional administrative procedures where possible. Proposed conditions such as expressed worker preference in writing, and to provide a written copy of the excepted agreement to all parties, are expected to be simple to administer without incurring substantive administrative costs to employers or introducing undue complexity. Furthermore, guidance will be provided to help businesses navigate the changes and new processes.

Declaration

Department: Department for Business and Trade

Contact details for enquiries: ERDAnalysisEnquiries@businessandtrade.gov.uk

Minister:

Kate Dearden MP, Minister for Employment Rights and Consumer Protection

I have read the Options Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed:



Date: 11 May 2026

Summary: Analysis and evidence

Price base year: 2025

PV base year: 2025

Description	1. Business as usual (baseline)	2. Restrict NDAs in cases of relevant harassment and discrimination
<p>Net present social value (with brief description, including ranges, of individual costs and benefits)</p>	<p>Used as baseline for the analysis</p>	<p>NPSV of -£48.8m</p> <p>Impact on businesses is expected to be net negative and driven by familiarisation and one-off implementation costs of the policy. In addition, in cases where an excepted agreement is pursued, businesses are assumed to incur costs from funding legal advice. However, they are also expected to benefit from a more transparent and inclusive workplace culture, improved employee trust and morale, and long-term retention that could arise as a result of the policy measure.</p> <p>Key monetised impacts include estimated annual net direct cost to business (EANDCB) of £5.7m.</p> <p>Illustrative business costs include one-off familiarisation costs of £47.8m and one-off implementation costs of £2.4m.</p> <p>However, these should be interpreted as an upper-bound estimate. They reflect conservative assumptions about the number of businesses that will need to familiarise themselves with the policy measure, given the absence of robust data on NDA usage.</p> <p>Other costs include one-off familiarisation costs to employment lawyers of £0.3m, and one-off implementation costs to legal firms and HR consultancies of £0.2m.</p> <p>Estimated unit cost to the employer of £690 for legal advice on an excepted agreement, and £76 to the worker.</p>

<p>Public sector financial costs (with brief description, including ranges)</p>	<p>Used as baseline for the analysis</p>	<p>Restricting the use of NDAs in cases of relevant harassment and discrimination may result in some additional demand on Acas early conciliation services and Employment Tribunals.</p> <p>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.</p> <p>While the option of confidential settlements will remain (if requested by the worker), the reduced ability for some employers to insist a worker signs an NDA 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.</p>
<p>Significant un-quantified benefits and costs (description, with scale where possible)</p>	<p>Used as baseline for the analysis</p>	<p>Non-monetised benefits of the policy overall include:</p> <ul style="list-style-type: none"> • Wellbeing benefits to workers from being able to speak openly about experiences of workplace harassment or discrimination, where they choose to. • Benefits to workers in strengthening their economic security, by reducing the economic harm NDAs may cause to workers. • Benefits to employers through improved workplace culture. <p>Non-monetised costs of the policy overall include:</p> <ul style="list-style-type: none"> • Costs to employers through reputational impacts businesses may face from public exposure of relevant harassment and discrimination. • Legal and administrative costs to employers from adapting operational processes to resolve cases of relevant harassment and discrimination internally. • Legal costs to employers to defend increased claims brought to Employment Tribunals. <p>Furthermore, it is expected that there will be:</p> <ul style="list-style-type: none"> • Benefits to employers and costs to workers from potentially reduced settlement payouts. • Uncertain impacts on workers from more harassment and discrimination cases entering Acas early conciliation or progressing to Employment Tribunals.

		<ul style="list-style-type: none"> Workers who bring forward valid claims may benefit from greater financial compensation. However, they may also face costs for bringing claims, which will include legal fees, time off work and emotional strain.
Key risks (and risk costs, and optimism bias, where relevant)	Used as baseline for the analysis	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
Results of sensitivity analysis	Used as baseline for the analysis	N/A