

# NDA's and the future of workplace accountability

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## Introduction

Non-disclosure agreements (NDAs) have become a defining feature of how workplace disputes are managed in the UK, raising fundamental questions about transparency, accountability and employee voice. This roundtable took place the day after Chancellor Rachel Reeves' historic Mais lecture, in which she said the Employment Rights Act (ERA) will uphold "dignity, security, and fairness for working people, creating a labour market with genuine two-way flexibility", adding that the landmark legislation will rebalance "incentives on employers not to fire and hire, but to retain and train". The ERA will render NDAs unenforceable in cases of harassment and discrimination. However, design and implementation will be determined through secondary legislation

Building on a previous discussion of the PLG on bullying, participants focused both on the Employment Rights Act and the power dynamic between staff and their employers, posing the question: "How do good employers behave"? International research indicates that 79% of employees who report misconduct experience some form of retaliation, while UK data suggests that 43% of whistleblowers face dismissal, resignation, or job loss after raising concerns. The use of NDAs is also significantly widespread, with estimates suggesting that confidentiality clauses appear in around 80-90% of settlement agreements, and that nearly one in three UK workers have signed an NDA.



The roundtable brought together cross-party parliamentarians (Labour, Liberal Democrats, Plaid Cymru), legal experts, practitioners, and campaigners to explore how organisations can move beyond reliance on NDAs to help foster psychologically safe environments, embedding accountability and personal responsibility. Key themes included legal mechanisms, organisational culture, access to justice, and the practical steps required to ensure that reform translates into better working environments.

## Key takeaways

### **The shift from legislative reform to implementation is critical**

- The Employment Rights Act is a “significant piece of legislation” for worker welfare, however “we still have quite a way to go” in ensuring effective implementation of NDA provisions – one of just two amendments accepted by the government.
- Secondary legislation, informed by a consultation, will define what constitutes an acceptable NDA, ensuring that protections are not undermined in practice.
- Maintaining political momentum: “Our fight is going to be making sure that we are kept up the priority list” to ensure delivery via the consultation through to secondary legislation.
- The need for clarity around “minimum red lines” was highlighted to support alignment across stakeholders and ensure consistency in implementation.

### **NDAs are a symptom of deeper cultural and systemic issues**

- NDAs are a “lagging indicator” of broader organisational failures, rather than the root cause of harm.
- Workplace processes run counter to building welcoming and productive cultures. Process-driven workplace culture is synonymous with “blame, division, punitive measures, sanction, risk mitigation”, contributing to escalation rather than conflict resolution.
- Organisations need to shift from compliance-driven grievance systems to resolution-focused approaches that prioritise dialogue, empathy, and learning – “culture is shaped by every conversation, if your conversations are toxic, expect your culture to reflect those conversations.”

### **Power imbalances and the victim’s experience remain central**

- Settlement agreements are the primary mechanism through which NDAs operate, typically linking financial compensation to confidentiality at the point an individual exits an organisation.
- This moment often coincides with the moment of maximum vulnerability when people face loss of income and financial security. Confidentiality (protecting the employer) becomes the only viable option to guarantee settlement, rather than being a freely made choice.
- Furthermore, “we’re putting more duty on the victim to understand the law, the victim has to fight, has to go through all the complexity.”

- Participants shared the personal impacts of NDAs, including long-term mental health and career consequences.
- The point when the individual signs is therefore critical. Their silence is secured in exchange for resolution at a moment of maximum imbalance. Even if legal protections change, people will continue to believe they cannot speak.
- Caveat: For some individuals, particularly whistleblowers, confidentiality can offer protection against lasting reputational harm and barriers to re-employment, in the absence of effective safeguards. Ensuring confidentiality is genuinely victim-led, rather than imposed as a condition of settlement, is essential.

### **Systemic accountability, leadership, transparency, and governance**

- Reform must move beyond individual cases to systemic accountability, with a particular focus on organisational leadership and governance.
- There is a need for greater transparency – i.e. employers should disclose NDA usage as a mechanism to shift incentives and drive accountability.
- The role of regulators and oversight bodies was identified as underdeveloped, with calls to expand mandates, particularly for the Health and Safety Executive, to encompass workplace wellbeing and psychological safety.
- “We need to look at how we enforce accountability within systems,” rather than relying on individuals to challenge harmful practices.
- At the core of this issue is the lack of joined-up thinking and planning across government.

### **The business case for “dignity, security, and fairness for working people”**

- In line with the Chancellor’s assertion, there is not only an ethical imperative but a commercial advantage to be gained from ensuring psychological safety, improving performance, engagement, and risk management.
- “Happy, healthier, harmonious” workplaces drive “higher performance,” reinforcing the case for proactive cultural change.
- The changing risk landscape reinforces the case against NDAs, which are increasingly seen as a “false economy” and a potential reputational liability rather than protection.
- However, businesses should not be blamed for adopting entrenched corporate practices. They need to be shown the return on investment (ROI) to drive adoption and best practice.

## Issues raised

### **Access to justice and tribunal backlogs**

Delays in the employment tribunal system hinder progress. Cases currently take up to two years to be heard, creating a structural incentive for individuals to accept settlements, often with confidentiality clauses, rather than pursue formal legal routes. “It’s not justice if you have to wait three years to relive what you’ve been through.” This dynamic risks perpetuating the use of NDAs, particularly where individuals seek closure or financial security. The interaction between NDA reform and wider access to justice challenges was highlighted as a critical gap in policy delivery, indicating a lack of joined-up thinking and coherent planning.

### **The role of legal advice and informed consent**

The session explored the complexity of legal advice in settlement processes. Participants noted that individuals often lack a full understanding of the implications of NDAs at the point of signing. While legal advice is mandatory, concerns were raised that the focus is often on explaining contractual terms rather than their practical and long-term impact. Individuals may have “absolutely no understanding of what that means” when revisiting agreements later. Regardless of the direct applications of NDA provisions under the Employment Rights Act, clearer standards for legal advice, improved public understanding, and mechanisms to ensure genuinely informed consent are essential.

### **Cultural resistance and uneven adoption across organisations**

There is a growing divide between organisations that are proactively adopting best practice and those that continue to rely on traditional, risk-averse approaches. While some employers are embracing transparency and more open working cultures, others remain resistant, often due to perceived reputational risks or lack of awareness of alternative approaches. The discussion highlighted that many organisations “don’t know what good looks like,” highlighting the need for clearer guidance and examples of best practice. The challenge of engaging small and medium-sized enterprises was also raised, given their limited resources and exposure to formal HR frameworks. This underlines the importance of the Policy Liaison Group’s forthcoming Duty of Care Guidelines, but also the role of regulators to provide useful guidance.

## Recommendations

- Ensure secondary legislation clearly defines acceptable NDA use, including strict requirements for victim-led confidentiality.
- Introduce mandatory reporting on NDA usage to improve transparency and accountability at board level.
- Strengthen requirements for independent legal advice and ensure individuals fully understand the implications of settlement agreements.
- Consider introducing cooling-off periods and time limits on confidentiality clauses.
- Expand the remit of regulators, particularly the Health and Safety Executive, to include workplace wellbeing and psychological safety.

- Tackle employment tribunal backlogs to reduce reliance on settlements driven by delays in access to justice.
- Promote best practice by highlighting organisations successfully implementing transparent, resolution-focused approaches.
- Develop clear guidance and support for SMEs to adopt effective workplace accountability frameworks.
- Embed a stronger business case for reform, including ROI metrics linked to performance, retention, and risk reduction.

## Links

- PLG on Workplace Wellbeing (2025) [Bullying and NDAs Roundtable Key Takeaways](#)
- CIPD (2025) [Good Work Index, Chpt 6](#)
- UK Government, Press Release (2025) [Victims freed from silence under NDA reform](#)
- Women and Equalities Committee (2019) [The Use of Non-Disclosure Agreements in Discrimination Cases](#)
- Protect (2023) [The Cost of Whistleblowing](#)

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