

Government proposes enhanced protections for workers facing workplace discrimination

- New proposals include consulting on whether employers should be required to provide references for former employees
- move would crack down on rogue employers using references as a bargaining chip, ensuring workers are better protected from threats or intimidation
- part of a wider package cracking down on misuse of non-disclosure agreements (NDAs) and workplace discrimination announced in July

Employers could be stopped from withholding references to any employee under new proposals announced by Business Secretary Andrea Leadsom today (Tuesday 29 October). This would mean that employers could, for the first time, be required to provide at least a basic reference for any former employee.

Business Secretary Andrea Leadsom said:

I am determined to make the UK the best place to work and grow a business – including levelling the playing field between employees and employers. The overwhelming majority of businesses comply with the law, treating their employees with respect and fairness.

But we cannot tolerate the small minority that use nasty tactics like non-disclosure agreements and withholding references to pressure employees into silence, often in cases of serious wrongdoing. These proposals ensure individuals are protected, striking a fair balance between the interests of employers and workers.

These proposals form part of the government's response to an [inquiry on non-disclosure agreements](#) conducted by the Women and Equalities Select Committee (WESC).

Many of the recommendations made by the Committee were addressed in a raft of proposals announced in July to crack down on misuse of non-disclosure agreements, including legislation ensuring that confidentiality clauses cannot prevent individuals disclosing to the police, regulated health and care professionals or legal professionals.

Other recently proposed legislation includes:

- ensuring employers make clear the limitations of a confidentiality clause, in plain English, within a settlement agreement and in a written statement for an employee, so individuals signing them fully understand

what they are signing and their rights

- extending current legislation so that individuals signing NDAs will get independent legal advice on the limitations of a confidentiality clause – including making clear that information can still be disclosed to police, regulated health and care professionals, or legal professionals regardless of an NDA
- introducing new enforcement measures to deal with confidentiality clauses that do not comply with legal requirements – for example, an NDA in a settlement agreement that does not follow new legislative requirements will be legally void

These plans reinforce the government's commitment to balance the needs of workers and businesses, delivering a UK labour market fit for the modern world of work.

Additional information

Government announced an [initial crackdown on NDAs](#) on 21 July 2019 – including proposals to:

- legislate so that no provision in a non-disclosure agreement can prevent disclosures to the police, regulated health and care professionals and legal professionals
- legislate so that limitations in non-disclosure agreements are clearly set out in employment contracts and settlement agreements
- produce guidance for solicitors and legal professionals responsible for drafting settlement agreements
- legislate to enhance the independent legal advice received by individuals signing non-disclosure agreements
- introduce enforcement measures for non-disclosure agreements that do not comply with legal requirements in written statements of employment particulars and settlement agreements