

Banning NDAs in Universities: A First Step Toward a Better Culture in the Economic Profession

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Women in economics have always been players in a game where the pitch was never level. Numerous studies document the underrepresentation of women in the field (e.g., Gamage & Sevilla, 2019; Costa-Dias et al., 2023) as well as their “leaky” trajectory into senior positions (Lundberg and Stearns, 2019; Gamage et al., 2020; Eberhardt et al., 2023). This underrepresentation and attrition reflect inefficiencies in talent allocation, as shown by Hsieh et al. (2019), who link gender imbalances to losses in productivity and growth. Harassment and abuse may contribute to this attrition, consistent with evidence from Adams-Prassl et al. (2024) and Folke and Rickne (2022). The #MeToo movement in Economics exposed allegations of sexual abuse by senior academics, encouraging more women to speak out. Yet few consequences followed, often due to limited evidence, and some survivors faced career setbacks (Shinall, 2018; Saraiva and Weber, 2023). This paper assesses the recent UK ban on NDAs in higher education as a step toward addressing the structural incentives that prevent the efficient talent allocation in the profession.

Sexual harassment in the workplace continues to be regulated primarily by the Equality Act 2010. A potential victim of workplace sexual harassment must first notify the Advisory, Conciliation and Arbitration Service (ACAS) about their intention to make a claim. They are then offered to take part in a pre-Employment Tribunal (ET) settlement process before they proceed with a formal claim (Advisory, Conciliation and Arbitration Service, n.d.). In this context, NDAs were often used to settle cases outside the ET process in exchange for the victim’s silence (Chapman, 2019). Published ET data indicate that a notable share of harassment and discrimination claims involving higher education institutions have been withdrawn prior to public hearing, suggesting private settlements (Chapman, 2019; HM Courts and Tribunals Service, n.d.). These figures understate the true extent of the problem, as many (45% according to the Royal Economic Society 2020 Climate in Economics Survey; around 50% according to Equality and Human Rights Commission, 2018) victims never file a claim at all, either due to fear of retaliation, the trauma of reliving the abuse, or the hierarchical nature of academic institutions (Equality and Human Rights Commission, 2018; McCarry and Jones, 2022). In a case study in a UK university, McCarry and Jones (2022) found that victims cited fear of power dynamics as a key reason for not reporting. Out of the 26% of staff members reporting experiencing sexual harassment, with most cases involving more senior male perpetrators. NDAs can disincentivise institutional accountability, enable repeat offences, and silence victims, thereby undermining the very purpose of the legal protections in place.

Against this backdrop, recent legislative reforms in the UK, including the Higher Education (Freedom of Speech) Act 2023 and the Worker Protection (Amendment of Equality Act 2010) Act 2023, mark progress in tackling harassment and discrimination in higher education institutions. The former prohibits the use of NDAs in cases of harassment, discrimination, or bullying in UK universities while the latter introduces a proactive legal duty for all employers to predict and prevent sexual harassment. While these measures are welcome, their outcome is unclear. According to Donna Patterson, Founder of Let's Talk Work, banning NDAs could have two potential outcomes: either an increase in reported cases of harassment and discrimination that were previously concealed by NDAs, or a decrease in such cases if employers respond by enhancing their training programs and workplace practices to create safer working environments. Patterson, in a 1:1 interview, further comments on the Worker Protection Act, noting that employers may not take action since it is unlikely they will face consequences unless an employee successfully wins a claim against them in the ET.

A ban on NDAs is a positive step, but it will have limited impact if women are too afraid to speak out in the first place. We propose two complementary measures to help address this challenge. First, further reforms are needed to address the structural power imbalances within higher education institutions and ensure an accountable working environment. The Equality Act 2010 prohibits retaliation (victimisation) against victims, but this protection applies only to individuals employed by their current employer. Power in academia is often consolidated in the hands of a few, enabled by the widespread use of fixed-term renewable contracts and the gatekeeping function of reference letters, particularly for junior academics. These practices create dependency and discourage reporting. To address these structural disincentives, the profession should complement legal reforms with institutional safeguards. Codes of conduct, as adopted by the American Economic Association (AEA) and the Royal Economic Society (RES), can establish shared norms and reporting procedures (American Economic Association, 2018; Royal Economic Society, n.d.). Regular climate and omnibus surveys offer a way to track misconduct and identify systemic risks across career stages (e.g., American Economic Association, 2019; Royal Economic Society, 2020). Second, legal procedures must also be simplified and accelerated, and the time window for filing claims should be extended. The timeframe to litigate a successful claim is three months minus one day from the act of harassment or discrimination (Advisory, Conciliation and Arbitration Service, n.d.). This timeframe is unproportionate to the emotional trauma the victims suffer and often results in the loss of the right to litigate when exceeded. Employers may thus have an incentive to wait out internal complaints in the hope that victims will abandon their claims or exit the institution and to act more decisively only as a public hearing and formal judgment become imminent. A ban on NDAs is a meaningful start, but its impact will depend on continuing the broader reforms that reduce institutional dependency, strengthen protections

across the academic hierarchy, and create conditions where speaking out is both safe and effective.

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