

Telstra ditches NDAs related to sexual harassment

Euan Black *Work and Careers Reporter*



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Telstra will no longer ask employees affected by sexual harassment in the workplace to sign non-disclosure agreements that ban them from talking about the incident, the company's chief people officer has announced.

Alex Badenoch, Telstra's group executive of transformation, communications and people, said in a note to staff on Thursday that the company does not have a practice of seeking NDAs in such circumstances and had "very rarely" used NDAs in the past.

But the company wanted to take its "commitment one big step further", she said.



Telstra's Alex Badenoch said the company would no longer request NDAs in sexual harassment cases – unless the victim asked for one.

“While the government has not mandated any action, I believe it is the right thing to be more transparent,” Ms Badenoch wrote.

“By taking confidentiality agreements off the table – unless it’s something a victim requests and we’re not legally obligated to report it – we will shine a light on the issue, send a strong message that sexual harassment is not tolerated, and be able to share anonymous learnings that could prevent future incidents.”

Ms Badenoch said she believed “NDAs can unintentionally contribute to a culture of secrecy” and removing them could reduce incidents of sexual harassment in the workplace.

Her announcement came a day after Sex Discrimination Commissioner Kate Jenkins told the National Press Club that NDAs silenced victims and protected serial predators [<https://www.afr.com/work-and-careers/workplace/remove-the-secrecy-from-sex-harassment-cases-jenkins-20221130-p5c2ef>].

“Confidentiality around [sexual harassment] issues allow people to move from workplace to workplace or even stay in the same workplace and even continue to harass,” Ms Jenkins said.

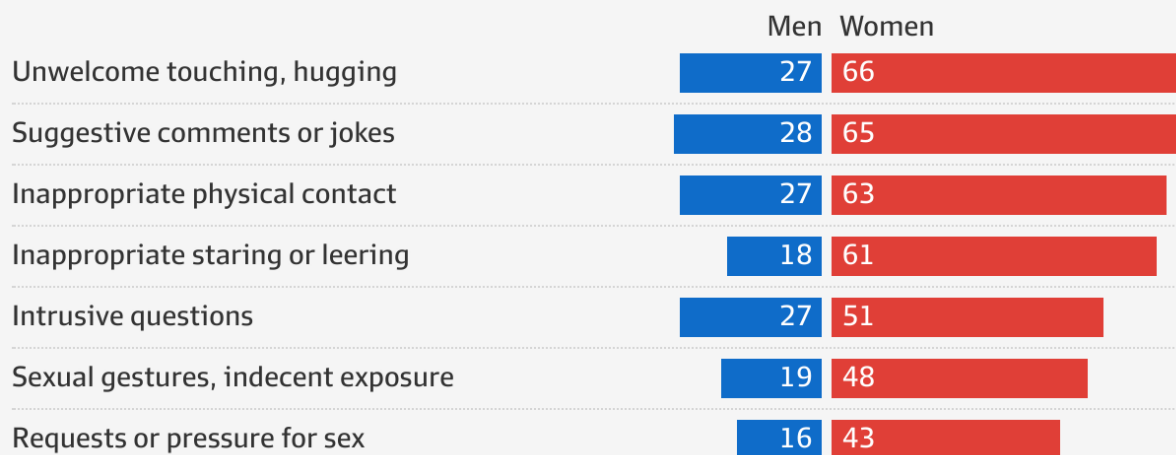
“They also silence people who experience harassment and find years later they still can’t talk about something that had happened to them. And they hide information that corporate boards or leaders need so that they may never even know there had been issues.”

However, Ms Jenkins said that nondisclosure agreements could be “beneficial” in some circumstances.

“But they shouldn’t be the standard. And they shouldn’t be blanket; there should be nuance around what is kept confidential,” she said.

Types of sexual harassment by gender (%)

■ Men ■ Women



Source: AHRC

During her speech to the press club, Ms Jenkins presented new findings from a survey of more than 10,000 Australians by the Australian Human Rights Commission, which found that one-third of workers had been sexually harassed at work over the past five years but only 18 per cent of incidents had been reported.

Forty-one per cent of women said they had been sexually harassed, compared to 26 per cent of men, and more than three quarters (77 per cent) of harassers were male.

Next year, employers will be required to implement measures to prevent sexual harassment, sex discrimination and victimisation in the workplace under a new 'positive duty' included in the Respect At Work Bill that federal parliament passed

on Monday. A transition period contained in the bill means the duty will not become enforceable for 12 months.

The new laws also give the Human Rights Commission beefed-up powers to address and enforce compliance with the positive duty, including the capacity to hand out compliance notices to employers that fail to meet their obligations.

The Attorney-General's Department will soon publish guidelines on the [Respect@Work](https://www.respectatwork.gov.au/) website that provide three fact sheets for lawyers, individuals and businesses.



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