

# About the notice of breach of preconditions

*Restricting Non-disclosure Agreements (Sexual Harassment at Work) Act 2025*, section 16

## About this notice

In Victoria, there are rules about the use of non-disclosure agreements (**NDA**s) in workplace sexual harassment matters. These rules apply to NDAs entered into on or after 1 July 2026 and are intended to protect workers who have experienced sexual harassment at work or in connection with work (including people who work as volunteers).

An NDA that stops someone who has experienced workplace sexual harassment (**complainant**) from:

- talking about their experience of workplace sexual harassment, and/or
- naming the person who harassed them (if that person was 18 years or older at the time) (**respondent**)

is not legal unless certain rules (called **preconditions**) are met. If any of the preconditions (listed below) are not met, the NDA cannot be enforced against the complainant (meaning it is not legal).

This notice can be used if a complainant believes that the preconditions have not been met.

## Who can use this notice

Use this notice if:

- you are someone who experienced workplace sexual harassment
- you have signed an NDA that prevents you from talking about:
  - details of the workplace sexual harassment, and/or
  - who harassed you (if they were 18 years or older at the time of the sexual harassment), and
- the NDA was entered into on or after 1 July 2026, and
- you believe that one or more of the preconditions (listed below) was not met before you signed the NDA.

This document is not legal advice. Please seek legal advice if you are unsure about whether the preconditions have been met or need help completing this notice. For further information about how to find legal advice please visit [vic.gov.au/nda](https://vic.gov.au/nda)

## What are the preconditions

The preconditions are:

1. The NDA was requested by you.
2. It was your express wish and preference to have an NDA.
3. You were given a copy of the *Information statement: Non-disclosure agreements (NDAs) (workplace sexual harassment)* after you requested an NDA and before signing the NDA.
4. You were given 21 days to review the NDA (unless you chose not to have a review period or to shorten it).
5. Before signing the NDA, you and the other party/parties to the NDA each signed an acknowledgement form to acknowledge that the above four preconditions were met.
6. You were not unduly (unfairly) influenced or pressured to request or agree to the NDA. Please refer to the *Information statement: Non-disclosure agreements (NDAs) (workplace sexual harassment)* for more information about what undue pressure or influence may look like.

## How to use this notice

To issue a breach notice, you must complete **Part B** of this form and give a copy of the notice to each other party to the NDA. You must select which precondition(s) you believe was/were not met and explain why you think this is the case.

This notice must be given to each other party to the NDA (i.e. your employer and/or respondent if they are a party to the NDA). You can remove the explanatory notes on pages 1 to 3 before providing the notice to them.

You can give the notice to the other party by hand, email or registered post. If one of the parties is your employer, you should give the notice to:

- (a) the person nominated in your workplace NDA to accept the notice on behalf of the employer, or
- (b) if no one is nominated to accept the notice, it should be sent via registered post to the company's usual or last known registered address or primary place of business, addressed to the Proper Officer.

## What happens when the notice is sent

After receiving this notice, the other party can make an application to the Industrial Division of the Magistrates' Court of Victoria for an order that the preconditions were met. They have 30 days after receiving the notice to make this application.

If the other party/parties do **not** make an application within 30 days of receiving the notice, the preconditions are taken to have **not** been met and the NDA will **not** be enforceable against you. This means that you will be able to talk about: details of the workplace sexual harassment; and the name of the person who harassed you (if they were 18 years or older at the time of the sexual harassment).

If an application to the Court **is** made, you must wait for the Court to decide whether the preconditions were met. You will be required to comply with the NDA until the Court says otherwise.

You can seek legal assistance to support you through the Court process. For further information about how to find legal advice please visit [vic.gov.au/nda](https://vic.gov.au/nda)

### **What happens if the NDA is not enforceable? Will I be able to talk about what happened to me?**

If the NDA is **not** enforceable, you will be able to talk about:

- details of the workplace sexual harassment, and
- the name of the person who harassed you (if they were 18 years or older at the time of the sexual harassment).

However, if you agreed in the NDA to keep anything else confidential, you will be required to keep this information confidential. This includes:

- the amount of any financial compensation paid to you (e.g. settlement money), and/or
- the name of the person who harassed you if they were under 18 at the time of the harassment.

If the NDA is part of a broader agreement (such as a settlement agreement), the rest of the agreement will also continue to apply.

### **Further information**

For more information about how the law applies to the use of NDAs in workplace sexual harassment matters, see [vic.gov.au/nda](https://vic.gov.au/nda)

### **Translating and interpreting service**



Call 131 450 to translate this information in your language.

For more information about this free service, visit [tisnational.gov.au](https://tisnational.gov.au).

If you are deaf or find it hard hearing or speaking with people who use a phone, you can contact the National Relay Service at [accesshub.gov.au](https://accesshub.gov.au).

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### Part A – Information for the employer/respondent

This is a breach notice in accordance with section 16 of the *Restricting Non-disclosure Agreements (Sexual Harassment at Work) Act 2025* (Vic) (**the Act**). It tells you that the complainant considers that the workplace non-disclosure agreement (**NDA**) you have entered into with them is unenforceable against them because you have not complied with one or more of the preconditions under section 8 of the Act.

You can find details of the breach at **Part B, section 5** of this notice.

#### Contesting a notice

You are entitled to contest this notice if you believe the preconditions for the NDA were met. If you wish to contest this notice, you must make an application to the Industrial Division of the Magistrates' Court within 30 days of receiving this notice [mcv.vic.gov.au/form-finder/interlocutory-summons-form-46a](https://mcv.vic.gov.au/form-finder/interlocutory-summons-form-46a)

If you do not make an application within 30 days of receiving this notice, the preconditions for the NDA will be taken **not** to have been met and the agreement will **not** be enforceable against the complainant.

If the NDA requires you to keep certain information confidential (for example, a requirement that you do not disclose the complainant's identity), you must continue to uphold these obligations.

You should seek legal advice if you are considering contesting a notice. For further information about how to find legal advice please visit [vic.gov.au/nda](https://vic.gov.au/nda)

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### Part B – Notice (to be completed by complainant)

#### **1. TO THE EMPLOYER (if applicable)** *(Name of employer to whom this notice is being served)*

Name

Address

Email

#### **2. TO THE RESPONDENT (if applicable)** *(Name of respondent(s) to whom this notice is being served)*

Name

Address

Email

#### **3. NOTICE GIVEN BY** *(Name of complainant who is serving the notice)*

Name

Email

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### 4. DETAILS OF NON-DISCLOSURE AGREEMENT

Date agreement entered into

Copy of agreement attached

YES

NO

### 5. REASONS FOR NOTICE BEING GIVEN

I am giving you this notice because I consider that one or more of the following preconditions were not met (*select all that are applicable*):

I did not request to enter into the workplace non-disclosure agreement.

It was not my express wish and preference to enter into the workplace non-disclosure agreement.

I was not given a copy of the *Information statement: Non-disclosure agreements (NDAs) (workplace sexual harassment)* before entering into the workplace non-disclosure agreement.

I was not given a period of at least 21 days to review the workplace non-disclosure agreement (and did not agree to waive this review period or agree to a shorter review period).

Before signing the workplace non-disclosure agreement, one or more of the parties to the agreement did not acknowledge, by signing the approved form, that the preconditions referred to above were met.

I was subject to undue (unfair or unreasonable) influence or pressure in relation to my decision to enter, or request to enter, into the workplace non-disclosure agreement by a party to the agreement or person acting on behalf of a party to the agreement (such as their lawyer).

Details of breach

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### Signature of complainant

Signature

Name

Date

#### This notice was sent on:

#### This notice has been delivered:

Personally, for example, by hand

By post

*Registered post tracking number (if applicable):*

By email

*Email/postal address:*

### Note

If you wish to contest this notice you must make an application to the Industrial Division of the Magistrates' Court of Victoria within 30 days of receipt of this notice. You should seek legal advice if you are considering contesting a notice.

### Help or further information

For more information about how the law applies to the use of NDAs in workplace sexual harassment matters, see [vic.gov.au/nda](https://vic.gov.au/nda)

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