

USING DATA TO HELP BREAK DOWN BARRIERS THAT EXIST TO SILENCE VICTIMS

Speak Out Revolution an award winning not-for-profit, founded in 2020, with a mission to cancel the culture of silence on harassment and bullying in our workplaces is the official Data Insights Partner for the 'Can't Buy My Silence' (CBMS) campaign.

The 'Can't Buy My Silence' campaign led by two influential activists and whistle-blowers in the #MeToo Movement who have joined forces to launch a campaign against non-disclosure agreements (NDAs) that enable powerful individuals and corporations to cover up sexual harassment, racism and other wrongdoing.

Zelda Perkins, campaigner and whistle-blower – the first woman to break an NDA, signed decades earlier, with Harvey Weinstein - and Canadian law professor, author and NDA whistle-blower Dr Julie Macfarlane are jointly fronting the new 'Can't Buy My Silence' campaign that aims to have the misuse of NDAs outlawed in jurisdictions across the world.

As the Data Insights Partner Speak Out's reports that quantitatively and qualitatively the systems and processes in place for workplace harassment and bullying act to silence the target, not solve the problem. Speak Out's data is compelling:

- From a research study of 500+ people that had experienced workplace issues they have found that 21% had signed an NDA and another 10% said they couldn't say for legal reasons (indicating they had signed an NDA but were too intimidated to say so despite the anonymous setting).
- Nine in ten people who had gone through the formal grievance process and signed an NDA said it had a negative impact on their mental health
- While for those who said they couldn't reveal if they had signed an NDA for legal reasons, 95% said it had a negative impact on their mental health highlighting the toll of secrecy and legal threats has on victims.

NDAs, which were initially introduced to protect sensitive and confidential information (particularly intellectual property), have now become ubiquitous and are being used by individuals and organisations to silence victims who are unable to speak out about sexual misconduct, racism, pregnancy discrimination and other human rights violations.

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Speak Out's CEO, Frances Holmes weighs in,

“The change Speak Out are driving is critical to the evolving work environment we are seeing today. With the impact of the pandemic, it's more important than ever to create truly inclusive environments where everyone can bring their whole self to their work as we all transition to a more hybrid flexible work environment than pre-covid times.”

The campaigners for the CBMS campaign aim to lobby for legislation that will curtail the misuse of NDAs across the globe so that the powerful can no longer hide behind this sort of legal contract. This is already in motion in the Republic of Ireland where Senator Lynn Ruane is currently leading on creating new legislation.

On September 14th, 2021 Maria Miller MP, who chaired the Women and Equalities Select Committee in 2018 and 2019 investigating sexual harassment in the workplace and Non-Disclosure misuse, launched a 10 minute rule Bill on NDAs. The Bill, which has strong cross-party support, aims to stop NDAs from being used to cover up cases of illegal activity and wrongdoings against employees in the workplace.

Speak Out's Chief Technology Officer (CTO), Marie Hemingway shares the following,

“Speak Out Revolution are proud to be the data insights partner for the CBMS campaign, embracing our commitment as an organisation to challenge the status quo, that acts to silence targets of workplace harassment and bullying - not solve the problem.

Our technology provides a safe, global platform for targets of workplace harassment and bullying to anonymously speak out. We offer strategic, data driven insights to policy makers in Westminster essential for evidence based policy making that serves everyone, not just those in positions of power.

We invite anyone who has experienced workplace harassment and bullying from around the world to anonymously complete the Speak Out Survey. So we can continue to advocate for those who have been silenced and cultivate the diverse and inclusive workplaces our future societal challenges demand.”

Individuals who want to share their experience of workplace H&B whether they signed an NDA or not can anonymously add their experience to drive legislative change at speakoutrevolution.co.uk/cantbuymysilence

For more information and interview requests please contact: Marie Hemingway at press@speakoutrevolution.co.uk.

Campaign website: <https://www.speakoutrevolution.co.uk/cantbuymysilence>

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Notes for editors

1. MPs supporting Maria Miller MP's ten minute bill

Maria Miller MP's Bill has strong-cross party support from MPs, including: Flick Drummond MP, Mary Robinson MP, Angela Crawley MP, Jo Gideon MP, Emma Lewell-Buck MP, Andrea Leadsom MP, Sarah Champion, Tulip Siddiq MP, Kevin Hollinrake MP and Philip Davies MP

2. Background on the misuse of NDAs

Non-Disclosure Agreements (NDAs) have become the default solution for organisations, corporations, individuals and public bodies to settle cases of sexual misconduct, racism, pregnancy discrimination and other human rights violations. They are used not just to cover up misconduct and abuse in workplaces, universities and religious institutions - but to hide faulty products, addiction issues in gambling, the abuse of minors in sports training, the use of public funds in settlements and more - the list is long and shocking. These agreements, which threaten people with legal consequences, are being used to cover up abuse, and in some cases criminal acts.

What's the problem with NDAs?

- Allow a person who has behaved abusively and possibly criminally to remain in their workplace or move to another workplace with a clean record.
- Gag victims permanently, often preventing them speaking to family, friends or even a therapist about what has happened to them, or warning others about the perpetrator or malpractice.
- Outside the workplace, NDAs are increasingly being used in settlement agreements to cover up defective products, accident causes, and other public dangers
- Benefit the employer's reputation and the career of the perpetrator, not the victim or whistleblower (who can be protected by a simple confidentiality clause).
- Require the victim and in some cases their colleagues to tell lies, or risk being sued for "defamation" as the truth is hidden by an NDA.
- Are usually pressed on victims who are told they "must" sign to protect the other party if they want a settlement.
- Chill the climate for anyone wishing to speak up about wrongdoing

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What's the solution?

- The goal of our campaign is simple - legislative and regulatory change that will make NDA's unenforceable for anything other than their original purpose - the prevention of sharing confidential business information ("intellectual property") and trade secrets.
- To provide a safe platform for people to share their experiences anonymously and access information to give them the facts about the unenforceability of many NDA's and how to respond if being forced to sign one.
- Heightened awareness and global discussion around the misuse of NDAs has resulted in policy changes in some organisations (e.g. the BBC, Conde Nast & University College, London), new guidance from regulators (e.g. the Solicitor's Regulatory Authority in England & Wales) and new laws in some US states (e.g. California where we are working with Ifeoma Ozoma, the co-sponsor of the Bill) and now in Ireland, where Julie & Zelda are working with Senator Lynn Ruane on bringing forward a new Bill. They are also working with legislators in Canada on new legislation to be introduced in Prince Edward Island and the federal Senate modelled on the Irish Bill, and with a government task force in Victoria Australia considering legislation in this area.

3. The CBMS Campaign co-founders

Zelda Perkins has been campaigning since 2017 when she was the first woman to break an NDA, signed decades earlier, with Harvey Weinstein. She brought the systematic abuse of NDA's to the attention of the British Government and international press, giving evidence at two parliamentary inquiries, which have uncovered an epidemic of misuse, and pushing the England and Wales Solicitors Regulatory Authority to take disciplinary action against the lawyer who created her NDA for Weinstein. Her actions have been inspiring others, to come forward by her example. Zelda was named a Person of the Year by Time magazine in 2017 and by the Guardian in 2020.

Professor Julie Macfarlane is a Canadian law professor, Member of the Order of Canada, who has won many awards for her work in advocating for access to justice. In 2016, in her personal negotiations with the Anglican Church, she persuaded the Church and their insurer to end the default practice of forcing NDAs on victims of clerical abuse. Later that year⁴, she discovered that a colleague terminated following an investigation for harassment and other misconduct was protected by an NDA that had been negotiated before his departure from the University of Windsor, and that he had been able to move to another law school who knew nothing of his history. The University continued to hide the facts in the NDA enabling the perpetrator to successfully sue her for "defamation".

Their combined experience has made them key experts consulting to legislators, educators and organizations around the world, and passionately committing to ending the misuse of NDAs.

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4. Speak Out Revolution Founders

Frances Holmes is the founder and CEO of Speak Out Revolution.

She is an innovation leader at an international engineering firm focused on the exploitation of novel, innovative technologies that address real customer needs. Her experience in proof of concept development and innovation has been essential to launching our digital business.

With a background in Mathematics and a career in engineering, she is passionate about diversity and inclusion in STEM professions. She is an advocate for future generations to join the field, ensuring it is a safe and inviting work environment for all.

Marie Hemingway is the founder and CTO of Speak Out Revolution.

She is a strategy consultant helping businesses transform their people, processes and technology to drive positive business outcomes with expertise in strategic investment decision making, digital transformation and organisational change.

She is a board member for the Women's Infrastructure Network focused on expanding the network outside of London, creating cross sector opportunities for women to network, exchange ideas and help shape the infrastructure agenda.

Their extensive research and insights gathered have made Speak Out a key resource and data partner for organizations globally who are committed to truly moving the needle on diversity, equity and inclusion in the workplace.