

Should the 90-day deadline for raising personal grievances be extended for sexual harassment victims?

A bill before Parliament seeks to extend the timeframe for raising personal grievances from 90 days to 12 months. Submissions to the Select Committee on the bill outline why the current timeframe is failing sexual harassment victims.

An employee currently has 90 days to raise a personal grievance against their employer. The Employment Relations (Extended Time for Sexual Harassment) Amendment Bill ("**the Bill**") was introduced by Dr Deborah Russell in 2021. It proposes to extend the timeframe to 12 months.

The Select Committee has heard submissions from 43 parties on the Bill. Out of the 43 submissions, 39 support the Bill. Some want the deadline pushed back to two years or more, and others want it extended to include other forms of disadvantage such as racial discrimination and bullying. The general consensus however, is that the Bill is a step in the right direction.

Simon Schofield of the University of Auckland said;

"... the longer the law carries on in this unsatisfactory state, the longer that sexual harassment will continue to thrive in the shadows, the longer the perpetrators will avoid accountability on technical grounds and the longer the victims will be denied access to justice."

Some of the issues surrounding the current timeframe that were presented to the Select Committee include:

- The 90-day rule does not reflect the way sexual harassment plays out in practice.
- The nature and reality of the offending is that it takes many victims a prolonged period of time

to come to terms with their experience and report it.

- Delay can be caused by embarrassment, a lack of understanding of what has happened, self-blame, fear of what others will think, and the cultural norms of "shame".
- There is a power imbalance in the workplace. Victims are in a situation of inherent vulnerability because their livelihoods depend on them remaining at work.
- It is very rare for a victim to be able to overcome pressure from management, workplace culture, process all of what has happened and the associated trauma, and muster the courage to speak out within 90 days.
- The legal and technical aspects of raising and fighting a personal grievance are not always at the forefront of victims' minds.
- The thought of having to relive the experience in a courtroom can be traumatising.
- Surveys show people are badly affected by sexual harassment at work, yet the Employment Relations Authority hears very few cases. That suggests that something is wrong.

The Select Committee is due to report back to Parliament on 18 November. The Bill will then receive its second reading. It may receive some tweaking as it progresses through Parliament, however the general feedback to date is largely supportive of its intent.

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