

Historic win: harassment victim-survivors granted fairer access to justice

The union movement welcomes the Senate's passage of the Albanese Government's Costs Protection Bill, which will make it easier for victim-survivors of workplace sexual harassment to pursue legal action against perpetrators.

The Bill removes one of the main deterrents that victim-survivors face when considering court action – the risk of being burdened with the other side's legal costs, which can result in significant debt or bankruptcy.

Under the Bill's new 'equal access' costs model, workers can assert their rights in federal courts, without fearing hefty costs. The new model applies to all Commonwealth sexual harassment and anti-discrimination laws, restricting courts from ordering applicants to pay respondents' costs except in limited cases.

The ACTU is part of a broad coalition of over 85 organisations, the Power to Prevent coalition, including National Legal Aid and the Kingsford Legal Centre, which have been advocating for the new costs model.

According to ACTU research, only 1 in 230,000 victim-survivors of workplace sexual harassment bring proceedings to an Australian court.

The Australian Human Rights Commission estimates that nearly 1 in 5 workers are sexually harassed at work each year, yet only 444 cases have ever been brought to court since 1984 according to the ANU, allowing many perpetrators to evade accountability.

The model already exists in international jurisdictions, including federal civil rights and anti-discrimination laws in the United States.

Quotes attributable to ACTU President Michele O'Neil:

"Today marks a significant strengthening of rights for people who have been harassed and discriminated against at work. Victim-survivors of workplace sexual harassment now have a fair chance to seek justice without the fear of financial ruin holding them back.

"No worker should be priced out of justice when they have experienced sexual harassment and discrimination. Every day, in every sector, in every part of the country, unions represent workers experiencing harassment and discrimination at work.

"This Bill sends a clear message: workplace harassment is unacceptable in our workplaces. This is a massive step forward in holding perpetrators accountable and making workplaces safer for everyone.

"Yet again we see the Dutton Opposition vote against better rights and protections for working Australians.

"Unions will continue campaigning to ensure every Australian has a safe, respectful, and just workplace.

Quotes attributable to National Legal Aid Executive Director Katherine McKernan:

“Australia still has unacceptably high rates of sexual harassment, and it is important that people who are disadvantaged can access justice if they experience discrimination.

“It is heartening to see the Government listening to both victim-survivors and those organisations that work with the most disadvantaged to design a system that removes barriers to seeking redress from workplace discrimination and sexual harassment.

“This change is especially important for individuals in low-paid and precarious employment, which often translates to lower awards of compensation that are quickly eroded by legal costs in litigation.

Quotes attributable to Victoria Legal Aid Special Advisor Melanie Schleiger

“Over the past ten years, Victoria Legal Aid’s specialist discrimination law service, the Equality Law Program, has provided over 12,500 legal advice sessions on discrimination matters and run over 1,000 case files, but during that time, only 4 of our clients proceeded to hearing and final judgment.

“Many of our clients choose not to proceed with seeking legal justice because of their legitimate worries about financial risk to their future well-being, and that of their families.

“Today’s change removes a significant barrier and addresses the power imbalance between victim-survivors and their employers – who often have legal teams and large budgets to defend claims.

Quotes attributable to Kingsford Legal Centre Director Emma Golledge:

“I think the whole nation was shocked by the Respect@Work Report and the high rates of sexual harassment in Australia. This type of conduct has lasting and damaging effects on people. To prevent sexual harassment, we must support victim-survivors to assert their rights.

“Enforcing your rights shouldn’t bankrupt you, and people who experience sexual harassment shouldn’t be forced to end their claims because of this fear.

“Community Legal Centres have long campaigned for this reform, and we hope this not only increases justice for people who are affected by sexual harassment but contributes to the prevention of it and creates safer workplaces for all.”

ENDS

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