

EMPLOYMENT

‘Disappointing’: Govt kicks employment advocate regulation down the road

Workplace Relations and Safety minister Brooke van Velden says legislative change is something ‘for the next minister’ while an advocacy body says it’s not needed at all



by **Alice Peacock**

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Brooke van Velden told an employment law conference that regulating advocates is something 'for the next minister'. Photo: Getty Images

Calls for regulation of advocates who help employees through workplace disputes are going unanswered, the legal sector says.

Employment lawyers say instances of “unacceptable behaviour” are on the rise, with issues around excessive fees, the filing of meritless claims and in some cases, substandard AI-generated advice being provided to clients.

It comes after Workplace Relations and Safety minister Brooke van Velden told an employment law conference regulating advocates is something “for the next minister”. In a statement provided to Newsroom, van Velden says there is “no room” in her work programme to regulate employee advocates.

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Advocates represent employees during employment disputes, which can arise over instances such as unfair dismissals or personal grievance situations.

This work can also be done by an employment lawyer but unlike a lawyer, who must hold a practising certificate, advocates aren't required to meet any training or qualification standards.

Catherine Stewart, of the Employment Law Association, says the sector has been “crying out” for legislative reform to regulate advocates for around two decades, having lobbied successive governments.

“To date we have not seen any tangible action on this issue from any government over this whole period of time, and it is always disappointing when this important issue is not given the priority it needs.”

Stewart says it is a growing issue, with increasing instances of “unacceptable behaviour” highlighted in a number of recent court and authority decisions in which advocates have been reprimanded for their behaviour.

“There is a real concern for vulnerable consumers who unwittingly instruct advocates, often not realising they are not lawyers, and who may have negative experiences and end up feeling very let down by our industry.

“This is a common scenario for me and my colleagues who pick up files that have been initially handled by advocates, and we often see clients greatly distressed by it.”

Speaking of specific issues he has experienced in disputes involving employment advocates, employment lawyer Tim Gunn says some advocates are profiteering off workers with “meritless” claims, which an employer might end up paying “to make it go away”.

In recent years he has dealt with two instances where employee advocates blackmailed and threatened his employer client, telling them they would complain to the police about some other minor issue if they didn't pay out.

Many advocates haven't changed their fee structure from when mediations occurred online as opposed to in person, he says, with some charging higher rates than his own, as a lawyer.

In a recent case – *Joyce v Ultimate Siteworks Ltd [2024]* – the advocate was accused of “inappropriate behaviour”, including “unprofessional and abusive communications and the respondent's representative such as emails, late night phone calls and one star google reviews”.

“They need a body that regulates them, looks at competency, that that you can raise disputes with, that audits them, that provides certainty of competency, that teaches them about AI use and privacy concerns and all of those kinds of complex things,” Gunn says.

There are concerns these issues mean vulnerable clients might not get the quality of help they need. Employment lawyers also say bad operators, many of whom operate on a ‘no win, no fee’ basis, will push for a payout as opposed to relationship reparation regardless of the situation at hand.

Allen Goldstone, of Auckland Employment Advocates, doesn’t believe further industry regulation is needed. He says legal professionals “are not saints” and that there will be bad apples among both advocates and lawyers.

Goldstone’s experience straddles both positions; he was admitted to the bar in 1977 but does not hold a Law Society-issued current practising certificate.

“My personal view is that no further industry regulation is needed,” he says.

“If employment advocates, who are almost exclusively the only representatives offering ‘no win, no fee’ were to be regulated then charges would need to increase to cover indemnity insurance and the increase in time involved in bureaucratic processes.

“Lower costs to access legal representation benefits consumers who might otherwise be unable to afford a lawyer with a practising certificate. This is an employment advocate’s competitive advantage.”

Van Velden was speaking at the Burning Issues in Employment Law conference when she acknowledged the sector’s concerns about the lack of regulation of advocates, saying it’s something she hears about “quite consistently” but is not an immediate priority.

“It is something that my officials are aware of, and it’s something that potentially the next minister could pick up.”

She tells Newsroom: “I am aware of the issue and have listened to concerns from the legal and business sectors. One focus area currently before the House addresses some concern in this area.

“The Employment Relations Amendment Bill will change personal grievance settings for reinstatement and receiving hurt and humiliation compensation, and I believe will reduce cases of employee advocates bringing claims without merit through the Employment Relations Authority.

“I remain committed to ensuring New Zealand has a fair and effective employment relations system that works for everyone.”

In September van Velden announced she was moving forward with plans to overhaul New Zealand’s “broken” leave legislation and replace it with a new Employment Leave Act. Other key changes include a shift- to hours-based accrual system for annual leave; the draft legislation is expected to be introduced to Parliament by the beginning of 2026.