

# Labour Market Enforcement Strategy 2023 to 2024

## Citizens Advice Scotland evidence – 31st May 2022

*Scotland's Citizens Advice Network is an essential community service that empowers people through our local bureaux and national services by providing free, confidential and independent advice. We use people's real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help and we change lives for the better.*

### Summary

Employment advice accounted for 4% of all advice given by the Citizens Advice network in Scotland in 2021-22. Yet while our advisers are able to offer people information about their rights at work, many struggle to enforce these rights in practice.

#### CAS is calling for:

- A three-pronged approach to ensuring fair work in low-paid sectors, covering:
  - A preventative strand focused on awareness-raising for individuals and employers, working with schools and job centres to ensure those entering the workforce are fully informed of their rights and entitlements, and with enterprise bodies to ensure new employers understand their responsibilities.
  - An easy process, anonymised if necessary, where employees, employers, and witnesses can report concerns that result in swift investigative action.
  - A strong approach to enforcement when non-compliance is found, with responses guided by the severity and impact of the non-compliance.
- Adequate funding for employment support and wider advice services.
- A holistic view towards supporting fair work, in particular by providing a strong social security system and other policies to tackle the rising cost of living, in order to give people the security to challenge poor working practices without facing poverty.
- A prioritisation of the Employment Bill and the introduction of a single enforcement body, adequately funded in order to effectively protect worker's rights.

## Section 1: About you

Citizens Advice Scotland (CAS), our 59-member Citizen Advice Bureaux (CAB) and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems. During 2020-21, the entire Citizens Advice network provided advice and assistance to over 171,000 individuals; this equates to one in every 26 adults living in Scotland. The network put almost £147 million back into people's pockets during this time, with every £1 invested in core advice funding returning £14 in gains for people. Our extensive footprint is important in helping us understand how issues impact locally and nationally across the country and the different impacts that policies can have in different areas.

We have only responded to questions where we have robust data to support an informed response.

## Section 2: Questions relating to the emerging non-compliance threats

### 1. Recent changes in how UK labour market is operating

The need for employment advice has fluctuated over recent years. In 2021-22, Scotland's CABs provided almost 36,000 pieces of employment advice to clients—accounting for over 4% of all advice provided across the network last year.<sup>1</sup> This was a marked decrease from 2020-21, where employment ranked third in terms of the most popular advice areas (8% of all advice provided across the network)<sup>2</sup> and remains slightly below pre-pandemic levels of employment advice need (5% of all advice in 2019-20). Employment advice has also been highly

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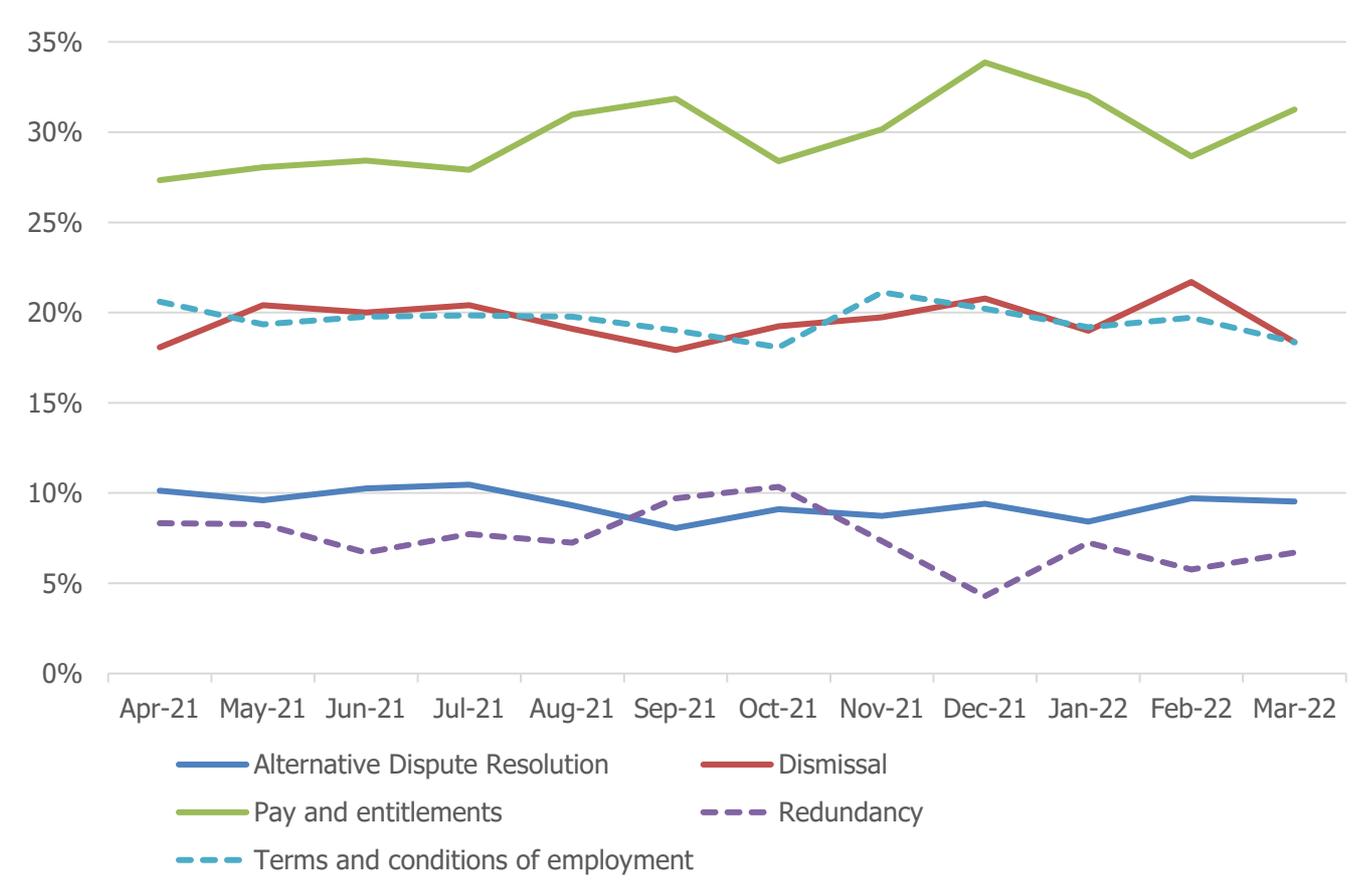
<sup>1</sup> All figures are based on advice code data. These are recorded by advisers every time advice in relation to a particular topic is issued. All figures are expressed as percentages of their 'parent' advice code category: e.g., Pay and Entitlements advice is expressed as a proportion of all Employment issues. This allows for more effective comparisons between quarters when overall numbers of clients fluctuate and/or there are changes in advice provision (e.g., the shift to telephone and email at lockdown).

<sup>2</sup> CAS, [Annual Data Report \(2020/21\)](#).

represented in search terms on CAS’s Advice for Scotland website, which in 2020-21 saw an almost 40% increase in users compared to the previous year. Among all advice searches, not only for employment issues, ‘redundancy’ was the most common search term during 2020-21 and ‘furlough’ was the sixth.

The types of employment advice needed by our clients has settled into a largely consistent pattern over the past year, compared to the large changes for certain advice codes during the early stages of the pandemic.<sup>3</sup> ‘Pay and entitlements’ is the most common employment subject we give advice on, accounting for around 30% of all these issues in 2021/22 and showing a peak of 34% at the end of 2021. The other noticeable trend is a small increase and then rapid fall in advice need on ‘Redundancy’ when the furlough scheme was removed in October 2021.

**Chart 1. Most common Employment advice (Apr 21-Mar 22)**



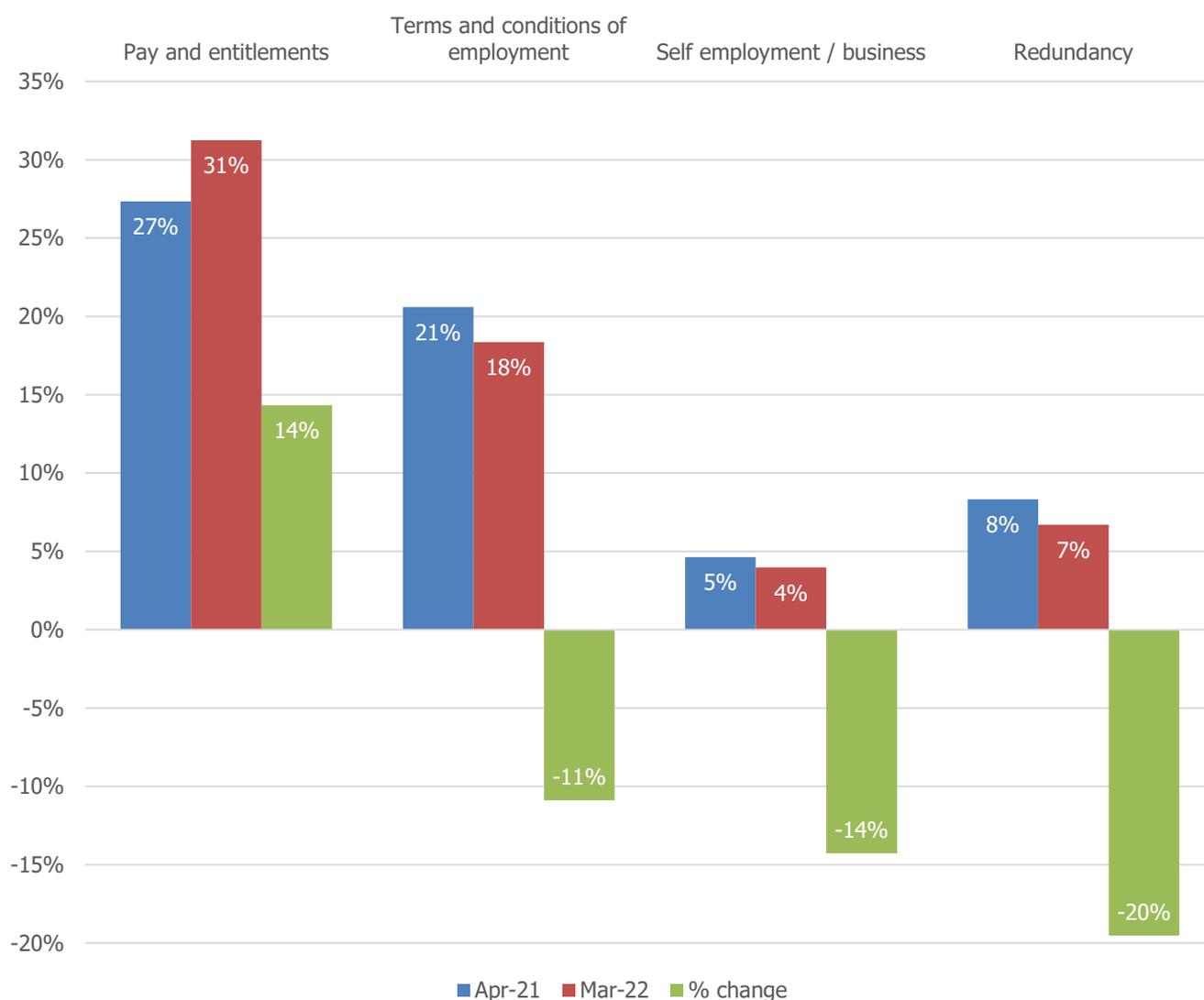
<sup>3</sup> Citizens Advice Scotland, [Becoming a Fair Work Nation consultation response](#), 23 December 2021, pages 5–6, which shows that advice on ‘self-employment’ and ‘redundancy’, for example, varied widely in reaction to lockdowns and other pandemic measures.

**Table 1. All Employment advice (Apr 21-Mar 22, selected data)**

	<b>Apr-21</b>	<b>Jun-21</b>	<b>Aug-21</b>	<b>Oct-21</b>	<b>Dec-21</b>	<b>Feb-22</b>	<b>Mar-22</b>
Alternative Dispute Resolution	10%	10%	9%	9%	9%	10%	10%
Applying for jobs	2%	2%	2%	3%	1%	3%	2%
Dismissal	18%	20%	19%	19%	21%	22%	18%
Health and Safety	4%	4%	4%	4%	4%	3%	4%
Parental and carers rights	3%	4%	4%	3%	2%	4%	3%
Pay and entitlements	27%	28%	31%	28%	34%	29%	31%
Redundancy	8%	7%	7%	10%	4%	6%	7%
Self-employment / business	5%	4%	3%	4%	3%	3%	4%
Terms and conditions of employment	21%	20%	20%	18%	20%	20%	18%

Comparing employment advice in April 2021 against employment advice in March 2022 also shows how the removal of pandemic measures has changed the advice needs of our clients. Advice on 'Pay and Entitlements' has risen 14%—and, as noted above, was even higher in December 2021—while advice on 'self-employment' and 'redundancy' have fallen by 14% and 20%, respectively, likely reflecting a settling of the labour market following pandemic disruption. The other notable change is an 11% fall in advice 'Terms and conditions of employment', again possibly reflecting the removal of furlough and the return to normal working conditions.

**Chart 2. Largest changes in employment advice need (Apr 21-Mar 22)**



**Table 2. All changes in employment advice (Apr 21-Mar 22)**

	Apr-21	Mar-22	% change
Alternative Dispute Resolution	10%	10%	-6%
Applying for jobs	2%	2%	-6%
Dismissal	18%	18%	2%
Health and Safety	4%	4%	-2%
Parental and carers rights	3%	3%	6%
Pay and entitlements	27%	31%	14%
Redundancy	8%	7%	-20%
Self-employment / business	5%	4%	-14%
Terms and conditions of employment	21%	18%	-11%

## 2. Workforce

For many CAB clients, employment advice will be part of a broader set of complex problems, with their ability to take up and sustain employment linked to income maximisation, debt advice, and the availability of social security support. Four key themes have emerged over the past year which have impacted our clients' employment advice needs:

- The end of furlough
- Cuts to social security
- Rises in the cost of living
- Changes in migration rules

### The end of furlough

The impact of the pandemic on people's employment has been visible across the CAB advice network. In a representative poll of CAB clients carried out in October 2020, 60% of clients in employment reported that their employment circumstances had changed since the start of the pandemic. This included clients who sought advice for issues other than employment. Within this group, 75% reported having lost their job as a result of the pandemic (although 13% had since found a new job or were now self-employed) and 25% were still in employment but had been furloughed. Younger clients in employment were more likely to say their employment circumstances had changed as a result of the pandemic (16-34, 67%; 30-49, 59%; 50-64, 33%; 65+, 38%).<sup>4</sup> This matches recent Scottish Government figures which show unemployment rates among young people to be more than twice that of other age groups.<sup>5</sup> Scotland's economy relies on agriculture, hospitality, tourism, and the arts more than the UK average, meaning it has been particularly vulnerable to the impact of COVID-19 over the past

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<sup>4</sup> Citizens Advice Scotland, Understanding Citizens Advice Bureau client experiences of advice provision during the COVID-19 pandemic, 9 December 2020.

<sup>5</sup> Scottish Parliament Information Centre (SPICe), [Labour Market update](#), May 2022, which shows 5.6% youth unemployment between January and March 2022 compared to 1.5%-3.5% for other age groups.

year, particularly in rural areas, where agriculture and tourism are key parts of the local economy.<sup>6</sup>

While the furlough scheme was successful in helping people keep their jobs during the worst of the pandemic, CAB have reported of clients facing reduced hours and threats of redundancy as the scheme was withdrawn. This may suggest a longer impact on the labour market as companies readjust to the economic situation without the support of the furlough scheme.

*An East of Scotland CAB reports of a client who has been told, along with her colleagues, that they must accept a new contract or accept voluntary redundancy. Contract changes include alterations to working hours and shift patterns. Employer has only given the workforce a few days to consider the offer.*

*An East of Scotland CAB reports of a client whose working hours were reduced by her employer without discussion or negotiation. However, other workers appear to have had their hours increased. Client is now being pressured by her employer to sign a backdated contract confirming her new hours.*

For some businesses the pressure of the pandemic has been compounded by issues like the fuel crisis and the lack of delivery drivers, both of which drive up their business costs.

*A North of Scotland CAB reports of a client whose hours were significantly reduced at the end of the furlough scheme. Her employer's business has suffered from the pandemic, as well as the ongoing fuel and delivery driver crisis. Client is now having to claim UC to make up her income. Client has no digital access so is concerned about difficulties they may face maintaining their claim.*

A weaker job market can perpetuate other types of discrimination in terms of who can find employment. One CAB told us of a client with mental health issues who has been unable to find work due to stigma around his condition.

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<sup>6</sup> ONS, [Labour Market Profile – Scotland](#).

*An East of Scotland CAB reports of a client struggling to find work due to his mental ill-health. Client has been applying for jobs over the past six months but has not been offered any interviews, which he believes is a result of stigma around his mental health condition. Client has tried seeking further support from his Jobcentre but has so far been unsuccessful securing additional volunteering or training.*

Another CAB told us of a client who had been employed on a false apprenticeship so that the employer could pay a substantially lower wage.

*A South of Scotland CAB reports of a client whose son was employed on a false apprenticeship. Client's son was dismissed after taking absence due to COVID and subsequently discovered that there was no paperwork in place for their apprenticeship. This means the employer was able to pay the client's son a lower wage without securing the employment qualification.*

Neither case can be explained solely by labour market difficulties. But it is worth acknowledging that where good, secure, and well-paid jobs are scarce, it will be people in weaker positions – those with disabilities, health conditions, non-UK nationals, and those at the start of their careers – who will disproportionately bear the brunt of unemployment or poor work.<sup>7</sup> A strong economy is needed to ensure equal access to the labour market for all.

## **Cuts to social security**

Almost 446,000 people in Scotland are currently on Universal Credit (UC), with 38% in employment.<sup>8</sup> However, compared to its value when UC was introduced in 2013, its basic allowance is now worth around a tenth (11.5%) less in real terms.<sup>9</sup> This low rate of social security support can cause real problems for people's standard of living. A recent survey of CAB clients who sought UC advice between March and December 2020 found that, among unemployed clients who relied solely on the basic allowance of UC for their income:

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<sup>7</sup> See, for example, Scottish Government, [Consultation on Scotland Becoming a Fair Work Nation](#), October 2021, pages 9–10, which notes that the disability employment gap widened in 2020, likely as a result of the pandemic.

<sup>8</sup> DWP, Stat Xplore, March 2022.

<sup>9</sup> Citizens Advice Scotland, [MP Briefing on Fall in UC Real Terms Value since 2013](#), 10 February 2021

- 77% said UC was inadequate for their needs.
- Almost two in three had to cut down on heating (63%) and electricity or gas (61%) while on UC.
- Two in five (41%) went without essentials to cover their bills.
- Over a third (36%) had to borrow money in order to pay for essentials.
- One in five unemployed people said they had gone without something altogether (for example, giving up using their heating or electricity and gas entirely) since their UC claim began – more than double the proportion of employed people we surveyed.<sup>10</sup>

Low social security support impacts fair work in two ways. First, a low rate of social security means people will be more willing to accept poor working conditions in order to top up their income. A strong social security system will give people more confidence to challenge poor employers, safe in the knowledge that they will not face immediate poverty should their employer illegally dismiss them.

Second, on the scale of the national economy, a weak social security system also harms economic growth. People on low incomes spend their money in their local communities, meaning any cut to social security is a cut to some of the most deprived local economies.<sup>11</sup>

Understood in this way, a strong social security system also supports local businesses and local economies, ensuring employers are able to grow, recruit new workers, and offer better working conditions.

In October 2021, the UK Government introduced changes to Universal Credit to better support those in work, such as a lowering of the taper rate and an extension to Work Allowances for

<sup>10</sup> Citizens Advice Scotland, [Five People, Five Reforms: Strengthening Universal Credit after the Pandemic](#), January 2022.

<sup>11</sup> See, for example, Zara Canbary and Charles Grant, [The Marginal Propensity to Consume for Different Socio-economic Groups](#), Brunel Economics and Finance Working Paper No. 1916, October 2019. See also House of Lords Economic Committee, [Employment and COVID-19: time for a new deal](#), 14 December 2020, para 85: "We heard that higher spending on social security can serve as an effective economic stimulus which would help people through the crisis and support the recovery. Thomas Pope, Senior Economist at the Institute for Government, said, 'people on low incomes tend to have a much higher marginal propensity to consume out of their income, so, if you give them more income, they are more likely to spend it. It is certainly not an ineffective form of stimulus' Helen Barnard, Director of the Joseph Rowntree Foundation, said, 'the stimulus effect of social security spending is better than the stimulus effect on demand of things like tax cuts.'"

those who receive them. However, other policies to encourage work have had a more complex impact. The DWP's 'Way to Work' campaign, for example, requires that people on Universal Credit search for jobs outside of their preferred sector after four weeks of jobseeking, as opposed to the previous three-month window.<sup>12</sup> This will push people on Universal Credit to apply for unsuitable jobs and potentially lead to a downward pressure on entry-level positions, creating additional barriers to finding good, secure jobs for those in weaker positions (for example, those with disabilities, health conditions, non-UK nationals, and those at the start of their careers). The DWP's own equality analysis of the policy found that young people and women would be disproportionately impacted by the policy as they were more likely to be subject to intensive work search requirements.<sup>13</sup>

### **Rises in the cost of living**

Similar to social security support, rises in the cost of living can make it harder for people to find good, sustainable jobs. A higher cost of living places greater pressure on people to find work, meaning they are more willing to accept poor working conditions in order to top up their income, and can also impose barriers on a person's ability to enter the workforce, for example where a person may not be able to afford to travel to work or a job interview.

*A South of Scotland CAB reports of a client who was forced to quit his job as his earnings no longer covered the cost of travel to and from work. The client is now living on social security income and had come to CAB seeking a food bank referral.*

The cost of living has risen dramatically over the past nine months. Energy prices rose 54% in April 2022, and while the UK Government has planned financial support to alleviate these bills, many are already struggling to make ends meet. CAS's Advice for Scotland website has seen a 393% increase in searches for grants and benefits to help you pay your energy bills between April 2021 and April 2022, and advisers are frequently seeing clients in need of fuel bank referrals.

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<sup>12</sup> DWP, [New jobs mission to get 500,000 into work](#), 27 January 2022.

<sup>13</sup> DWP, [Equality Analysis for Reducing the Maximum Period to Look for Work from Three Months to 4 weeks for UC Intensive Work Search and New Style JSA Claimants](#), 31 January 2022.

*A North of Scotland CAB reports a social housing tenant with two children, including one under two. Despite receiving everything they are entitled to and one adult being self-employed, the family can no longer afford their energy costs and are having to ration their energy use. They are reliant on food banks and charity shops to keep their household costs to a minimum. They are using cloth nappies to keep costs down but are struggling to afford the washing machine to wash these.*

While increases in the cost of living are not connected directly to the labour market, employment can be the difference between making ends meet and falling into real poverty. Moreover, if someone is unable to afford to heat their home or keep their electricity on, they will also struggle to search for work and succeed in interviews. Further targeted support would help ensure access to the labour market for everyone and provide people with the security to stand up for their basic rights at work.

### **Changes to migration rules**

One group who can face particular vulnerability in their working conditions are non-UK citizens. These people can face language difficulties understanding and exercising their rights, as well as direct discrimination from employers. CAB have reported a number of cases where non-UK nationals have faced breaches of their employment rights, some in relation to pay.

*A West of Scotland CAB reports of an Iranian client who was refused statutory entitlement to holiday pay and statutory sick pay for just under two years. Client was ultimately dismissed for refusing to accept cash-in-hand payments below the National Minimum Wage and refusing to commit benefit fraud. As she was dismissed before the two-year mark, client does not have full protection of employment law. Client says she is one of a number of Iranian nationals who have been exploited by this employer.*

*An East of Scotland CAB reports of a client who had unexplained deductions taken from her wage. Client suspects that her employer is discriminating against her as an EU national because he does not expect her to understand her employment rights.*

In cases where CAB have reported explicit racial discrimination or harassment, the employees are also likely to be in low-paid and precarious work, showing how poor quality work overlaps with other breaches of employment rights.

*An East of Scotland CAB reports of a client facing harassment from his direct manager. Client works in a hotel kitchen but is currently on sick leave. The manager has been accused of breaching health and safety rules, discriminating against non-UK staff, and using inappropriate language. Client says non-UK nationals have all been given reduced hours while UK staff have been returned to work fully. The business has also suggested that redundancies are forthcoming but client believes they are cutting hours to wait and see if employees will resign first.*

It is also worth noting how poor work intersects with immigration-related restrictions on social security. Low levels of social security support mean people will put up with poor working conditions just to remain in employment. For people subject to immigration control who have no recourse to public funds, this impact is magnified as they rely solely on their employment for income.

*A West of Scotland CAB reports of a client with a young daughter facing financial difficulties. Client and his wife are both on Tier 4 visas and have no recourse to public funds. Both clients work at an airport and are set to be made redundant as a result of COVID-19. Client is very concerned about how they will manage after their redundancy begins and are concerned they will not be able to pay rent next month.*

The impact of No Recourse to Public Funds rules will grow as we move further away from Brexit and more EEA nationals lose their rights to social security support. However, even EEA nationals who have applied for the EU Settlement Scheme (EUSS) and should accordingly have protected employment rights are facing difficulties due to low knowledge among employers about the retained workers' rights.

*An East of Scotland CAB reports of a client who has a long-term pending EUSS application. Client has worked with the same employer for over five years but, despite guidance that no retrospective right to work checks are needed, the client is being*

*pushed by his employer to provide his EUSS share code. Client is worried the delays with his EUSS application will lead to him losing his job.*

*An East of Scotland CAB reports of a client who works for an employer with a large EU citizens workforce. Client said that there were 20 people dismissed from work as they have not provided proof of EU Settlement Scheme status. The employer then placed a deadline of early August for staff to share their EUSS confirmation. Client was not aware that if someone has got pending EUSS application their rights can still be protected.*

In terms of support for those subject to immigration control, provision of adequate support to those with No Recourse to Public Funds will help reduce the risk of exploitation of migrant workers who rely solely on their wages to make ends meet. EEA nationals would also benefit from a public campaign to reinforce their rights to employers, helping ensure they do not face discrimination or dismissal because of misunderstandings around their right to work.

### **3. Workforce Engagement**

Advice services like CAB play an important role in informing people about their employment rights, giving them a more effective voice in challenging unfair work practices. This is particularly necessary for low-paid jobs where union membership is likely to be less concentrated. Adequate provision of advice services is crucial for ensuring low-paid workers have an effective voice at work. CAB help people understand and enforce their rights in the absence of other support, and through initiatives like the CAB advisers' Employment Specialist Forum and Inverness Badenoch and Strathspey CAB's Fair Work in Action Project the network is always looking to strengthen its employment advice provision.<sup>14</sup> Without the availability of free

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<sup>14</sup> The Employment Specialist Forum is a regular meeting for CAB advisers across the network who specialise in employment work. The Forum allows advisers to share knowledge across the network and identify national trends in employment advice. The Fair Work in Action Project aims to provide mentoring, support, and up-skilling to the wider CAB network in order to meet the increased demand from clients who have employment (or work equality rights) issues including due to the impact of COVID-19. Priority is given to CAB's who currently have no dedicated paid employment specialist and will provide advice, information and/or as required direct support and assistance to bureau staff and volunteers via a dedicated helpline and e-mail portal as well as through additional engagement and training events. The project started on 1<sup>st</sup> April 2021 and will run to March 2023.

advice and support to enforce the minimum rights of the lowest paid, more progressive improvements to fair work will be held back.

CAB can also offer holistic advice to a person facing employment issues, allowing them to carry out income maximisation checks to improve the person's financial situation outside of work, and the local knowledge and face-to-face support of a CAB can be a great comfort for clients in times of stress. The below cases from CAB across Scotland illustrate some of the fundamental employment issues our clients seek advice on every day.

*A South of Scotland CAB reports of a client who received no written statement of employment terms when they started their job in 2018. Client is now facing transfer to a new employer (who has also not yet provided a written statement of her employment terms). Client is struggling to enforce her rights under TUPE regulations without a written contract.*

*A West of Scotland CAB reports of a client whose employer (a large bank) refused to pay them during a period of long-term illness. Client had been off sick at the start of 2021 with a medical condition. Later in the year he was again unable to work, this time due to stress, and was signed off work by his GP for six to eight weeks. During this second period of illness his employer changed his working hours to zero and he received no pay. Client had no income while off ill and was eventually forced to resign to seek other work.*

*An East of Scotland CAB reports of a client whose employer, a construction company, went into liquidation. Client attempted to claim JSA but was told he had no National Insurance contributions from his three years of employment. Client's payslips all showed deductions for these, suggesting the employer made the relevant deductions but never paid these to HMRC. Client is also due wages and holiday pay prior to his redundancy and is worried he will be facing a long battle to get paid the money owed to him.*

*An East of Scotland CAB reports of a client who was only paid furlough pay despite working full-time. The client's wage slip also showed incorrect hours. When client challenged his employer on this, the employer offered to make up the difference in cash.*

Clients facing these kinds of fundamental problems will often present with complex employment issues. Someone who is being paid below the minimum wage, for example, will almost always present at CAB with other breaches of their employment conditions, suggesting deliberate negligence or wilful ignorance by employers rather than one-off 'accidents'. Breaches of basic requirements like the issuing of payslips also greatly reduces the ability for enforcement of labour rights if a client does not know their wage breakdown, their hours worked, their tax contributions, or the deductions made for things like tied accommodation.

CAS is keen to support initiatives that could use our expertise in other ways. Angus CAB, for example, has been involved in a local project to help ensure young people nearing school leaving age are aware of their employment rights. This was centred around information sessions at local high schools on minimum wages and rights at work. Due to the pandemic the initiative did not progress but Angus CAB are keen to expand this work to help make young people at school, colleges, and universities aware of their basic rights in the world of work.

## 6. Employment models

Zero hours contracts remain an issue for many CAB clients. During the pandemic, many clients found they had no access to the furlough scheme or any other rights to continued employment once the labour market reopened. Others have reported being forced onto zero hours contracts during the pandemic so that businesses could avoid paying their full salaries as the economy reopened.

*An East of Scotland CAB reports of a client forced onto a zero hours contract at the end of the first period of furlough. Client was refused redundancy and has had no work since signing the new contract. Client is now left claiming Universal Credit.*

The lack of security in zero hours contracts has been particularly hard for those left unable to work due to COVID-19.

*An East of Scotland CAB reports of a client who has been told to self-isolate as a close contact of a confirmed COVID-19 case. Client is on a zero hours contract so has no income while he waits for the outcome of his Self-Isolation Grant application.*

Another common problem is in industries like deliveries, where employers classify their workers as 'self-employed' to avoid minimum wage requirements and other workers' rights.

*A West of Scotland CAB reports of a client working as a courier. Client is contracted as a self-employed worker and must hire a van and cover associated costs as part of the contract. Client had an accident that damaged the bumper of the van and the courier company attempted to charge more than £1,000 for this. Even after challenging this amount and reducing it to £200 plus additional charges, client has been left without pay for six weeks. CAB adviser notes that this case is representative of a number of recent CAB clients who work as drivers for courier companies.*

## **7. Enforcement resourcing**

Currently, responsibility for enforcement is disproportionately on the shoulders of individual workers. This disregards the power imbalance between workers and employers and potentially undermines good employers by making it too easy for bad employers to "risk" breaches without consequence. The harm and severity of a breach should be considered not just in terms of the number of offences or workers affected – or the amount of money involved – but in terms of impact on individuals and the knock-on effects of illegally low wages and other malpractice on living standards and health.

One employment specialist CAB adviser we spoke with questioned the effectiveness of current enforcement mechanisms, noting that where a client is not paid the minimum wage they have two options: they can either take the matter to the HMRC compliance team for enforcement; or the individual can make a request for ACAS early conciliation and then submit a claim to the Employment Tribunal. Cases can only go to the HMRC compliance team where non-payment of the minimum wage is the only head of claim. In reality, it is likely that someone receiving the incorrect rate of pay will also have other significant breaches of their rights, meaning they will

have to opt for the Employment Tribunal and their case will not be publicised. As such, the 'Naming Scheme' list that HMRC produce for breaches of the minimum wage is incomplete, ultimately reducing the incentive for employer compliance.

When clients go to enforce their Employment Tribunal award, they encounter additional difficulties. Enforcement through Sheriff Officers comes with an upfront cost that clients on low pay are unlikely to be able to afford. The alternative is to use the Employment Tribunal Penalty Enforcement scheme, where the employer will be told to pay the award or face an additional fine from the Government. Our CAB adviser reports that in practice these penalties are not enforced, leaving the client without redress.

*A South of Scotland CAB reports of a client who has been told he has to pursue his ex-employer through the Sheriff Court and Sheriff Officers. His ex-employer has transferred all his assets to his wife, making recovery difficult. Because of the client's debts (which are largely a result of non-payment of wages), he cannot afford more outlay than the £100 he has already spent trying in vain to recover the £5200 that he is owed. This has left him with no effective remedy to the breaches of his employment rights.*

Our CAB adviser suggested that breaches of the minimum wage be given similar enforcement to the HMRC's Statutory Payment Dispute Team. In cases where statutory wages such as Statutory Sick Pay and Statutory Maternity and Paternity Pay are not paid correctly, the HMRC takes over enforcement and can even directly pay the employee the wages owed if the employer is insolvent. This is particularly important where a company may be declared insolvent and "phoenixed" by an employer to avoid paying these liabilities. Our CAB adviser tells us enforcement in these cases is significantly quicker and more effective for clients than the current routes for recovering below-minimum wages.

CAS was encouraged to see the UK Government's recommitment to creating a single enforcement body,<sup>15</sup> a move we supported in the initial consultation in 2019.<sup>16</sup> In particular, the

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<sup>15</sup> Department for Business, Energy, and Industrial Strategy, [Establishing a new single enforcement body for employment rights: Government response](#), June 2021.

<sup>16</sup> Citizens Advice Scotland, [Good Work Plan: establishing a new Single Enforcement Body for employment rights consultation](#), October 2019.

expansion of the enforcement body's remit to cover entitlement to holiday pay and statutory sick pay without having to go through a lengthy employment tribunal process would help answer some of the issues raised by our adviser above. However, the Employment Bill's absence from the 2022 Queen's Speech raises concerns about when these legislative changes will be brought forward. The UK Government should as soon as possible set out timescale and clear funding commitments for the rollout of this new single enforcement body, in order that a more effective system of workers' rights protection can be brought forward urgently.

CAS's recommendation would be to dedicate resources to a three-pronged approach:

1. A preventative strand focused on awareness-raising for individuals and employers, working with schools and job centres to ensure those entering the workforce are fully informed of their rights and entitlements, and with enterprise bodies to ensure new employers understand their responsibilities.
2. An easy process, anonymised if necessary, where employees, employers, and witnesses can report concerns that result in swift investigative action.
3. A strong approach to enforcement when non-compliance is found, with responses guided by the severity and impact of the non-compliance.

In this light, strengthening advice services should be seen as a crucial part of any Fair Work strategy. Employment-related advice is underfunded and unionisation remains low in minimum wage roles, reducing the amount of support available to people seeking to enforce their rights.<sup>17</sup> For that reason, advice services like CAB often fill the gap left by other forms of employment support, while also offering face-to-face contact and holistic income advice to any client seeking support.

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<sup>17</sup> For example, IPPR Scotland, [Delivering a fair work recovery in Scotland: Securing a living income for all](#), August 2021 states that only half of all workers in Scotland had a union or employee association at their workplace, and even fewer were part of a union themselves (page 19). These figures were lower for young people, who are more likely to be in low-paid and insecure work: only 37% of young workers have a union or employee association at work; 61% are paid less than the real living wage; and 9% are on zero hours contracts – all substantially worse figures than the national average (page 28). Retail and hospitality jobs are also more likely to have low pay and no union representation (page 35).

One CAB adviser who specialises in employment work told us that CAB frequently make up for limits to the employment support available from other services. “*Legal Aid in employment cases is not provided other than in a very few discrimination claims*”, the adviser said. “*Even 'no-win, no-fee' arrangements are rare because of the limited levels of compensation awarded by Tribunals in most cases.*” While some CAB have the funding and resources to offer support up to and including representation at Employment Tribunals, others can go no further than helping in the preparation of ET1 forms.

*A South of Scotland CAB reports of a client pursuing a constructive dismissal case at the Employment Tribunal. Client cannot afford legal representation. At the preliminary hearing, the Employment Tribunal judge suggested the client contact CAB for assistance as the client was incapable of representing himself. CAB adviser notes that while CAB are happy to provide support, these types of employment cases are complex and time-consuming, suggesting a real gap in the employment support available to people on low incomes.*

The benefits of a single enforcement body can only be realised if the body is established with a view to enhancing employment rights compared to the current system, not as a cost-cutting measure focused on short-term efficiencies. Even if all current tools were at the disposal of a single enforcement body, there would still be no effective enforcement of tribunal awards and no direct powers over company director disqualification (other than specific EAS powers over running employment companies).<sup>18</sup> Fundamental reform and effective funding for enforcement is vital to protect people’s rights at work.

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<sup>18</sup> See further Citizens Advice Scotland, [Good Work Plan: establishing a new Single Enforcement Body for employment rights consultation](#), October 2019.