

Fair Employment

Why Scotland's workers need a
Fair Employment Commission



*based on the evidence of
Citizens Advice Bureau
clients across Scotland*

Contents

Executive summary.....	Page 2
Changes in terms and conditions.....	Page 3
Pay	Page 6
TUPE.....	Page 8
Layoffs.....	Page 9
Redundancy.....	Page 10
Unfair dismissal	Page 11
Enforcement of rights.....	Page 12
A Fair Employment Commission.....	Page 15
References	Page 15

The Citizens Advice Service in Scotland

Citizens Advice Scotland and its member bureaux form Scotland's largest independent advice network. CAB advice services are delivered using service points throughout Scotland, from the islands to city centres.

The CAB Service aims:

to ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities, or of the services available to them, or through an inability to express their need effectively

and equally

to exercise a responsible influence on the development of social policies and services, both locally and nationally.

The CAB Service is independent and provides free, confidential and impartial advice to everybody regardless of age, disability, gender, race, religion and belief and sexual orientation.

Executive summary

Citizens advice bureaux help thousands of clients each year with employment problems. These clients are often low paid, relatively low skilled, are often unaware of their employment rights, and are vulnerable to poor and illegal employment practices. The recession has created a situation in which these poor practices are more common: employees will put up with poor employers for fear of losing their job; workers will accept radical changes to their pay and hours rather than face a tough labour market; and employers will try to cut corners and slash costs in order to stay afloat.

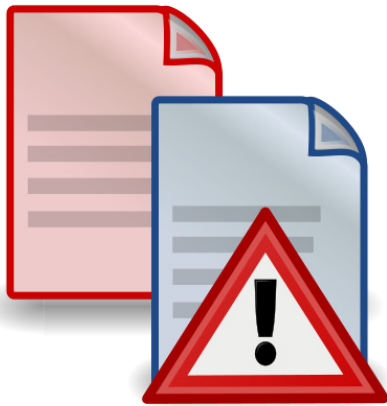
It is a difficult economic situation for both employers and employees. However, it is in the interests of both that the employment rights of workers are enforced. Poor employers can make life miserable for their employees, but they can also distort the playing field through unfairly reduced costs and put good employers under pressure to do the same.

It is in the interests of good employers, workers, and the wider economy, that rogue employers are prevented from exploiting vulnerable employees. However, the current system in place for the enforcement of employment rights is fragmented and difficult for workers to access. A Fair Employment Commission needs to be established to ensure that employment rights are protected and that rogue employers are prevented from exploiting workers and gaining unfair advantages over good employers.

Key findings in this report include:

- Many employers are changing the terms and conditions of their staff contracts rather than making large scale redundancies. However, these cuts in pay and hours can be forced on employees and often have a significant impact on their finances and wellbeing
- Employees report that they are being systematically underpaid, including being paid for fewer hours than they have worked and not being paid for overtime
- Employees that should be protected by TUPE regulations are finding themselves unfairly dismissed by their new employer
- Employees are being laid off for months with little chance of work and no offer of redundancy
- Employers can fail to follow their responsibilities when making staff redundant, including failing to pay due wages, holiday pay or redundancy pay
- Employees report being dismissed from employment after trying to enforce their employment rights
- Workers are often afraid to enforce their employment rights for fear of reprisals from their employer, while Employment Tribunals are an intimidating process for resolving workplace disputes. As a result, many employees feel unable to enforce their rights and poor practices go unresolved

Changes in terms and conditions



Every year, thousands of people seek advice on an employment problem at a citizens advice bureau in Scotland. In 2010/11, citizens advice bureaux in Scotland helped clients with 50,756 new employment issues – 139 for every day of the year.

Problems with terms and conditions are the most common type of employment issue brought to citizens advice bureaux. Clients sought advice on almost 10,000 such issues in 2010/11.

Impact of changes

One of the key features of the recent recession was that many employers retained staff on less generous terms and conditions rather than making large numbers of employees redundant. This applies to employees in both the private and public sectors. Whilst usually preferable to redundancy, these cuts in hours and/or pay can have a significant impact on the finances and wellbeing of the employee affected.

- ▶ **An East of Scotland CAB reports of a client who has been told that there will be a change in his hours and pay; he does not want to**

accept this but his employer has indicated that if he does not accept the changes he will have to leave. His hours will be reduced from 45 to 30 and pay from £8/hour to £7/hour – a reduction in income of £150 each week.

- ▶ **A West of Scotland CAB reports of a 23 year old client who experienced financial difficulties after his hours of work were reduced from 30 hours to 12.5 hours per week. The client now has debts of over £5,000 and he is unable to meet his contractual payments and is incurring interest and charges on his overdraft, credit card and loan accounts.**
- ▶ **A West of Scotland CAB reports of a client and her husband who work for the same company and whose jobs have both been affected by the recession. The client has been switched to part-time work while her husband is taking a pay cut of £320 a month. The couple are experiencing problems keeping up with payments on their mortgage and credit cards.**

The changes to terms and conditions can be so severe for an employee that they cannot afford to stay in employment. They may also feel that their employer is trying to make them resign to save them the cost of making the employee redundant.

- ▶ **An East of Scotland CAB reports of a client who has worked as a contract driver for a delivery service for the past nine years. Over the past three months the client has had his hours reduced**

from thirty to nine hours per week. The client cannot support himself or his family financially on this reduced wage and is having to borrow money from friends and creditors to survive. The client is of the belief that his employer is “forcing him out” to avoid paying redundancy.

- ▶ A North of Scotland CAB advised a client who was informed that he was being put on short-time working with immediate effect. This means a reduction in working hours from 39 hours to 24 hours per week. The client and other employees have not been told how long this arrangement will last. The client has been told by his employer that there is not enough work, but he believes that his boss is trying to lose workers without having to pay redundancy. None of the workers affected can afford to work at this reduced rate and they will be compelled to leave or look for alternative work.

Employees can also be required by their employer to increase the work that is expected of them without any corresponding increase in pay. This situation can cause significant stress for the employees affected.

- ▶ An East of Scotland CAB reports of a client who is being asked to work at an unreasonable rate by a new employer. The number of rooms that the client is expected to clean in a 7.5 hours shift has increased from 12 to 18-20. The client is also working longer than his contracted hours without extra pay and is

being asked to take on additional duties not in his job description. Due to the extra amount of pressure, some long serving staff have left employment resulting in extra duties for the client. The client feels that he is being ‘bullied’ by his new employer into meeting these targets. The client raised these issues with management without success and has now been signed off work with stress.

- ▶ An East of Scotland CAB reports of a client whose terms and conditions of work have changed completely since the client’s employers changed ownership. The client works as a cleaner in a major hotel chain. The client now has a certain amount of time to clean each room and has money deducted from her wage if targets are not met. This means that she is often paid less than the minimum wage.

Consequences for not agreeing to changes

Employees can have their working conditions changed at short notice, with little power to object if they want to keep their job. Although major changes in contract should be mutually agreed, employers tend to have the upper hand. To get their employee’s agreement to changes, employers can threaten consequences for failing to agree including redundancy, dismissal and withholding of wages.

- ▶ A West of Scotland CAB reports of a client who has received a letter from her employers stating that

her and three other employees' hours are to be decreased from January. If they do not agree to this, their names will be put in a hat and one will be made redundant.

- ▶ An East of Scotland CAB reports of a client whose working hours as a legal secretary have been reduced. All the secretaries in the office were collectively told their hours would be reduced by one day. For the client, this means moving to a four day week, but for those working part-time the change in hours and pay is significant. Unless they agreed to this reduction, two of the secretaries would be made redundant.
- ▶ A North of Scotland CAB reports of a client who has been led to believe that she will be dismissed if she refuses to accept a change in her hours of work. She has come into possession of confidential emails stating that this will be case. The client cannot increase her hours because she cares for her disabled daughter and any change will affect her availability to do so. The client has been employed as a cleaner for 13 years.
- ▶ An East of Scotland CAB reports of a client who has received a new contract from his employer but it is has changed significantly from his current one. The client has been told by his employer that if he does not accept the new terms, he will not be paid his salary for this month. The client stated that other employees have only signed the

new contract because of the threat of delayed payment by employer. The bureau advised the client that to withhold wages was unlawful.

Changes without consultation

Employers can make changes to the terms and conditions of employment for their staff without informing or consulting their employees. Whilst some employees have contracts that allow employers to make these changes, the employer must inform the employee of the change.

- ▶ A West of Scotland CAB reports of a client working part time at a supermarket, whose contract hours were changed without consultation or notice. The client worked her usual hours and received the relevant pay, but her manager now says the client was contracted for fewer hours and was therefore overpaid, despite having worked the hours.
- ▶ An East of Scotland CAB advised a client whose employer reduced her wages from £7.80 per hour to £7.40 without her knowledge. The client's contract states that she should be paid £7.80 per hour; she will be raising a formal grievance.
- ▶ A South of Scotland CAB reports of a client employed by a local nursing home and contracted to work 33 hours per week. A recent change in her shift pattern included a reduction to 29 hours a week. The client is nervous about complaining to her employer in case she is dismissed or made redundant.

In 2010/11, citizens advice bureaux helped clients with over 11,000 new issues concerning pay and entitlements. Issues concerning pay are more prevalent for 16-24 year old clients seeking advice at bureaux, who were more than twice as likely to seek advice on pay as other age ranges.

Underpayment of wages

Clients often report that they are owed wages by their employer who has been unable to keep up with payments due to the economic downturn. However, in other cases clients can be owed money after being systematically and deliberately underpaid.

- ▶ **A North of Scotland CAB reports of a client who has left her employment as a waitress due to her employer's behaviour. The client's employer had been falsifying the records of her hours worked and underpaying her on a regular basis. In effect, this means that she and other employees are being paid less than the national minimum wage.**
- ▶ **An East of Scotland CAB reports of a client whose employer is failing to pay the client the wages he is entitled to. The client is concerned that his payslips differ from month to month and also differ from colleagues working the same hours and same job. The payslips are confusing and do not specify the client's hourly rate (which the client does not know), or whether the client has been paid for overtime work. The client has been asked to work seven hours overtime on**

two occasions for which he was not paid due to the shift not being 'authorised'. The client has been told by a manager with whom he is friendly that managers get a bonus for keeping employees' salaries below a certain level.

- ▶ **An East of Scotland CAB reports of a client who works for a solicitor's office and has seen her contract changed from part time to full time and has already encountered pay problems. Her employer currently owes her three weeks wages for her part time work under her old contract and three months of full time wages under her new one. The client has not received any pay slips, and the employer has not been paying her Tax and National Insurance contributions.**

Overtime

Another common pay issue reported by clients is the refusal of employers to pay for overtime. Clients are often allowed to work overtime and only told later that they will not be paid for it.

- ▶ **A South of Scotland CAB reports of a client whose employer is refusing to pay her for overtime. The client worked 47 hours of overtime in one month, but was told that she is not entitled to overtime due to the terms of her contract. The client checked her contract which states that she should be paid time and a half for any overtime worked. The client has found that another worker did receive payment for the same amount of overtime.**

- ▶ A West of Scotland CAB reports of a client who was informed by his employers that they would not be paying overtime for two months but that overtime hours would be accrued and paid later. The client and other staff now feel that they are owed over £400 in overtime payments which the employer is refusing to pay.

Deductions from wages

Employers can make deductions for employee's wages for a limited number of reasons. However, citizens advice bureaux often see clients who have had illegal deductions taken from their pay packet.

- ▶ An East of Scotland CAB reports of a 19 year old client who has had numerous deductions from his wages, with post it notes on his wage pack saying that this was for till discrepancies. The client was asked to pay for training that he never received, while his employer often changes his employment contract verbally. The client is leaving next week for a new job, but has been told that he has to work a month's notice instead of a week as previously agreed.
- ▶ A North of Scotland CAB reports of a Portuguese client who is experiencing problems with an employment agency. The agency is deducting 2 ½ hours per week from his wages to allow them to pay it back to the client as 'holiday pay'. On four occasions in the last year, the client's bank has bounced the cheque from the agency and

charged the client £6 for doing so. The client tried to claim this back from the agency but was told to "back off". There are a large number of employees in the same situation.

National Minimum Wage (NMW)

A number of employers continue to ignore or are ignorant of their duty to pay their employees the National Minimum Wage. Evidence from citizens advice bureaux suggests that young people and migrant workers are particularly affected by this practice.

- ▶ A West of Scotland CAB reports of a young female client who had refused to sign a form at her work in a hairdresser's salon. The form would have tied her to an hourly wage of £2.26, despite the fact that she had completed her college course, and was now entitled to NMW. Her employer told her she was not sacked, but not to come back to work.
- ▶ A West of Scotland CAB reports of a client under the age of 18 who is being paid less than the NMW. The client has recently started working at a café and noted that she is being paid £2.74 per hour.
- ▶ A West of Scotland CAB reports of a 21 year old employee who is paid £4 per hour. The National Minimum Wage for 21 year olds is £5.80. He approached his employer about the shortfall, but he disputes the client's entitlement to NMW and refuses to pay. The client started as an apprentice five years ago but is now a qualified mechanic.



The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) aim to protect the rights of employees when businesses change hands. Any individual employed before the transfer automatically transfers with the business or contract. The new employer cannot change terms and conditions because of the transfer, while dismissal because of a transfer is automatically unfair.¹

Despite the protection that TUPE should afford employees, bureaux have reported numerous instances of these regulations being ignored by new employers. In some cases, employees are being effectively dismissed without being paid their due wages or given any notice.

- ▶ **An East of Scotland CAB reports of a client who has lost her job in a pub despite being told that her role would be protected by TUPE.**

After the pub changed ownership, the client and other employees came to work to find that it was closed and that they were to be paid off without any notice. The employees were eventually interviewed for their old posts, but none of the previous staff were taken on.

- ▶ **An East of Scotland CAB reports of a client working in a restaurant who was told that the business was being sold and that the new owner would keep on all existing staff and would be responsible for any monies owed. However, the new owner did not keep on any of the staff, employing new people throughout, and did not pay any wages due nor notice pay to existing staff.**

- ▶ **An East of Scotland CAB reports of a young client who was dismissed after the company he worked for changed ownership. Before the transfer all the employees had been told there would be no changes to their employment and had been sent letters saying they would be protected by TUPE. Once the transfer had happened the client was immediately dismissed. He had been given no reasons or notice for this, just told not to come into work.**

Lay offs

If an employer does not have enough business for the workforce, they can lay off employees rather than make them redundant. The worker is still employed but does not receive pay for this period. The employee may be able to claim Jobseekers Allowance in this period and will be entitled to claim redundancy after being laid off for four weeks in a row or six whole weeks in a 13 week period.

Citizens advice bureaux have seen a number of clients who have been laid off for significant periods of time without being offered redundancy. This is a situation of considerable stress and worry for many clients as they are often unsure of whether they will return to work as they try to cope with the halt in earnings.

▶ **A North of Scotland CAB reports of a client employed as a bricklayer who was laid off in November 2009 after 10 years of employment. The client was told to report back to the office after the Christmas break and did so every Friday until the end of April. Most of the time, the client was not given any information, just told that somebody would call him back but no one ever did. The client asked the company to pay him off but heard nothing more until asking again for redundancy in October, when he was told that they had assumed he had already left. The client did not at any time hand in his notice and neither did the company offer redundancy. The client was subsequently paid only his holiday pay – about four week's wages and is taking the employer to tribunal.**

▶ **A North of Scotland CAB reports of a client who has been working for four years without a contract. All the workers in the company were laid off in December, due to the weather. The client has only been called into work on four occasions in the last month, but says that the situation is intolerable as there is little money coming in and he is unsure whether he can claim benefit. His employer says that he may be eligible for JSA but that he must be available to be called into work.**

▶ **A North of Scotland CAB reports of a 28 year old client who has been employed by a local construction company for seven years as a labourer before being laid off. The layoff has now lasted for 26 weeks and the client has not received any payment apart from a statutory guarantee payment after 13 weeks. He now claims jobseekers allowance, but due to the reduction in income he has had to move out of rented property to live with his parents. The client has recently discovered that the company has recently hired another individual as a labourer.**

▶ **A West of Scotland CAB reports of a client under the age of 25 who has been employed for some time on a zero hours contract. The client had a claim for JSA rejected as the Jobcentre considers the client to be employed despite not having any hours of work. He has not been working for three weeks and it has been forecast that he is unlikely to work for about 10 weeks to come.**

Redundancy

Citizens advice bureaux helped clients with over 5,000 new issues relating to redundancy in 2010/11. When made redundant, employees have a right to their due pay for hours worked, their outstanding holiday pay, and statutory redundancy pay if the employee has two years continuous service with the employer. They are also entitled to a notice period. The employer should consult with employees before making redundancies and use a fair selection method to decide who to make redundant.

However, clients often report that many of these rights are not upheld by employers, including clients being wrongly told they are not entitled to statutory redundancy payments, and clients reporting that they have had due wages withheld after being made redundant.

Withholding redundancy pay

Employees with two years continuous service are entitled to redundancy payments from their employers. However, clients often report that they are wrongly told that they are not entitled to redundancy payments despite many years of service. Around 4 out of 10 redundancy issues brought to bureaux concern redundancy pay.

- ▶ **A West of Scotland CAB reports of a 60 year old client given a month's notice by her company's new owners as she is too old to learn the new computer programs and doing so could affect her mental health. The client has worked in this role for 20 years. She was told she is not entitled to redundancy pay because she is too old.**

- ▶ **A West of Scotland CAB reports of a client and her friend who have been made redundant from a jewellers' shop without notice or redundancy pay. The owner informed the client that she would not need to pay them redundancy but she might consider it. The client and her friend have worked there for 24 years between them.**

Failure to pay due wages

It is common for clients to report that their employer owes them significant sums of money after being made redundant, including wages for hours worked, holiday pay and notice pay. Employers have a duty to make these payments, but often refuse on the grounds that they can't afford to or that they do not believe they need to.

- ▶ **A West of Scotland CAB reports of a client who was made redundant with one day's notice, after her employer decided that she was now an 'unnecessary luxury'. She informed the employer that she was entitled to a week's notice, a week's holiday pay, and a month's wages, but the employer said that he could not afford to pay her.**
- ▶ **A West of Scotland CAB reports of a client who was 'let go' by his employer at short notice and told his pay would be 'seen to'. He discovered that the company then changed its name and restarted business with fewer employees doing the same work. The client enquired about his wages but was told to contact the 'old' company liquidator to follow it up.**

Unfair dismissal



In 2010/11, citizens advice bureaux helped clients with almost 8,000 new issues concerning dismissal. The majority of these issues concern either unfair, constructive or wrongful dismissal.

Young people aged 16-24 are more likely to seek advice on a dismissal issue than older clients. Evidence from bureaux suggests that young people may be more vulnerable to dismissal due to a lack of knowledge of their employment rights and the need for an employee to have been in post for 12 months in order to raise an unfair dismissal claim in most cases.

Dismissal for enforcing employment rights

Those who attempt to enforce their rights can find themselves quickly out of work. Citizens advice bureaux regularly advise clients who have lost their employment after asking for pay slips, written terms and conditions, or other employee rights. The employer's actions can in turn make it less likely that other employees will act to enforce their rights.

- ▶ **An East of Scotland CAB reports of a client who was dismissed for reporting his employer to HMRC**

for not paying tax and national insurance contributions on behalf of staff. The client was given hand written pay slips without a tax code and telephoned HMRC, who informed him that his employer was not registered and was not paying tax. The client told his employer that he needed a P46 and a tax code, but was promptly dismissed for being 'disloyal'.

- ▶ **An East of Scotland CAB reports of a 21 year old client who was dismissed from her employment without any warning on her return from holiday. The client had worked in a hotel for ten months and believes that she was told to leave because she had requested a written contract of employment. The client was supposed to work sixteen hours a week, but had regularly been told to work at least 35 hours weekly.**
- ▶ **An East of Scotland CAB reports of a client who was dismissed after questioning his employer over how the tips at the restaurant were shared. The client's employment contract stated that he would be paid £4.50 an hour with tips bringing his wage up to £6 an hour. When the client questioned his employer on this, he was dismissed on the spot.**

Dismissal without a contract

Clients who are working without a contract or payslips – and therefore working illegally – have fewer rights if they are dismissed. In some cases, it is difficult for the worker to even prove that they were employed.

- ▶ An East of Scotland CAB reports of a client whose former employer denies ever employing the client. The client was employed for eight weeks before having her employment terminated. The client did not receive the wages that she was entitled to, but has no proof of employment. The employer has indicated that in his view the client never worked for him and therefore there is no question of money being owed. Without proof of employment, there is little that the client can do.
- ▶ A North of Scotland CAB reports of a Polish client who was dismissed

after her employer found a discrepancy in the till. The client was being paid cash in hand and was therefore working illegally. The client wanted advice on her rights, but was told that there is no redress if she was working illegally.

Generally, an employee who has worked for more than a year has the right to go to employment tribunal to challenge an unfair dismissal, whilst others can claim wrongful dismissal through the courts. However, there are personal and financial costs attached to trying to enforce these rights as well as the potential to impact on future employment opportunities.

Enforcement of rights



While employees may have recourse to a remedy for breaches of terms and conditions, such as raising a grievance or through an employment tribunal, many are unaware that their rights have been ignored or are reluctant to enforce their rights due to the fear of losing their jobs in a difficult labour market. Employers who are deliberately flouting their responsibilities to their

employees can rely on this fear of reprisal to allow them to continue unfair practices.

Various studies have shown that workers are reluctant to enforce their rights when they experience a problem at work. Government research has shown that only half of those who experience a problem at work seek advice, and only two in five of these take action.²

Those who attempt to enforce their rights can find themselves quickly out of work. Citizens advice bureaux regularly advise clients who have lost their employment after asking for pay slips, written terms and conditions, or other employee rights. The employer's actions can make other employees in turn less likely to enforce their rights.

Employment tribunals

Employees who feel that they have been unfairly dismissed can raise a case at an Employment Tribunal if they have been in employment for at least 12 months. While this can be a route to redress for many workers, an employer may simply ignore the tribunal process and then fail to pay the resultant tribunal award.

In 2009, research by the Ministry of Justice found that four out of ten awards in England and Wales are simply not paid at all, and fewer than half of all awards are paid in full³. In Scotland, claimants can instruct sheriff officers to pursue the tribunal award from the employer, but must pay the fees to do so. Citizens advice bureaux have seen a number of cases in which employment tribunal fees have gone unpaid.

- ▶ **A North of Scotland CAB reports of a client who took her employer to an employment tribunal after they failed to pay her due wage. The judgement required the employer to pay the client over £1,300 for pay, annual leave, and a failure to provide terms and conditions. However, the employer is nearly three months late in making the required payment to the client, who cannot afford to instruct sheriff officers to enforce the debt. The CAB contacted sheriff officers who advised that this particular employer had previously failed to pay a settlement.**
- ▶ **A West of Scotland CAB reports of a client who received a default judgement at tribunal which**

requires the employer to pay the claimant a redundancy payment of £4,620, notice payment of £3,080 and holiday pay of £728. The client contacted his former employer to find out when he will be receiving the money, but was told that the employer is still refusing to make payment. The adviser informed the client that the employer will have to pay, but that it will now be treated as a court debt and needs to be formally enforced.

- ▶ **An East of Scotland CAB reports of a client who had been dismissed from his job and received help from the CAB to challenge the decision. A settlement of £5,000 had been agreed via ACAS, but his former employer had not paid the amount due. The client reported that he was now attending his GP for depression and was in receipt of employment and support allowance as he is unfit to work. He considers that this decline in his health is the result of stress surrounding his dismissal and appeal.**

The Government has proposed a number of changes to the Employment Tribunal regime designed to “fire up economic growth”. However, the proposed changes will not address the problems that workers experience when attempting to enforce their rights in the tribunal system.

We strongly oppose the proposed extension of the qualification period for workers to be able to bring a claim of unfair dismissal, from the current one year, to two years. This is likely to

do little to promote economic growth, but could have a significant impact on the ability of vulnerable workers to enforce their rights in the face of poor or illegal practices from their employer. Citizens Advice (England and Wales) describe any such extension of the unfair dismissal qualification period as little more than a 'charter for rogue employers'.⁴

The Government also proposes to increase the fine that can be levied for 'vexatious' claims⁵, despite little evidence that this is a serious problem. This could serve to discourage claimants with a strong case seeking to uphold their rights. None of the changes proposed by the Government address the problems that vulnerable workers currently face.

Enforcement agencies

A number of agencies offer some form of advice and/or redress to people experiencing employment problems. This includes the National Minimum Wage (NMW) enforcement division of HM Revenue & Customs (HMRC), the Employment Agency Standards Inspectorate (EASI), the Gangmasters

Licensing Authority (GLA), and the Health & Safety Executive (HSE). While we welcome the single gateway into these enforcement agencies, we are concerned that the combined remit of the four existing statutory enforcement bodies is far from comprehensive.

Each of the four bodies has a narrow and closely defined remit, either in terms of the statutory rights it seeks to enforce (HMRC and HSE), or in terms of the targets of its enforcement activity (EASI and GLA). This means that there is no statutory enforcement body to complain to for many workers.

In such circumstances, the only way for the worker to try and enforce his or her rights is to raise a formal grievance with the employer and, if that does not resolve the matter, to lodge and pursue an Employment Tribunal claim.

As a result of the fragmented enforcement regime, our evidence shows that many employees are unable to raise and resolve poor practices that they experience at work. This leaves some employers free to continue inadequate and sometimes illegal employment practices.

Conclusion: a Fair Employment Commission

The recession has created a situation in which poor employment practices are more common: employees will put up with poor employers for fear of losing their job; workers will accept radical changes to their pay and hours rather than face a tough labour market; and employers will try to cut corners and slash costs in order to stay afloat.

It is in the interests of good employers, workers, and the wider economy, that rogue employers are prevented from exploiting vulnerable employees. However, the current system in place for the enforcement of employment rights is fragmented and difficult for workers to access.

We argue that it is time for the Government to give exploited workers somewhere to turn, through the creation of a 'fair employment commission' with the legal powers and resources both to secure individual vulnerable workers their rights, and to root out the rogues.

A fair employment commission would need to:

- Cover all basic statutory employment rights, ensuring that there are no gaps in enforcement
- Have legal powers that enable the commission to secure individual workers their statutory rights and impose effective sanctions on persistently exploitative employers
- Cover all categories of workers, including agency workers
- Take a proactive approach to reach out to those who are too unaware or too intimidated to complain about poor employment practice

Employees have rights, but the system of enforcement often does not enable them to enforce them. As a result, a minority of employers are making the lives of their employees a misery. A fair employment commission – including all employment rights and all types of workers – would go some way towards protecting employees and good employers.

References

- 1 CIPD factsheet
- 2 Citizens Advice (2011), Give us a break! The CAB Service's case for a Fair Employment Agency
- 3 Ministry of Justice/Tribunals Service (March 2009), Enforcement of Employment Tribunal Awards in England and Wales
- 4 The CAB Service's response to the BIS/Tribunals Service consultation Resolving workplace disputes (April 2011)
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The CAB Service is independent and provides free, confidential and impartial advice to everybody regardless of age, disability, gender, race, religion and belief and sexual orientation.

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