

Out of work problems

When employment ends, being denied statutory rights - such as wages due, pay in lieu of notice, and proper dismissal procedures - piles on the misery for CAB clients

The UK Government has set a target of increasing the employment rate to 80%. Citizens Advice Scotland (CAS) supports the focus on improving the employment chances of marginalised groups. However, case evidence from Scottish Citizens Advice Bureaux (CAB) shows that clients face a range of problems when leaving work - whether by choice or through dismissal - that can affect their future chances of obtaining and sustaining permanent employment.

In 2006/07, Scottish bureaux handled 47,388 issues relating to employment. This figure represents 11% of the total number of issues brought to the Scottish CAB service and makes employment the third largest problem area. Almost half of these queries relate to terms and conditions of employment, whilst just under a quarter concern dismissal and redundancy.

Pay problems on leaving work

The largest problem area for CAB clients leaving work relates to pay. In most cases, the client has been in casual, temporary and short term employment. Although a pay complaint can be heard by an employment tribunal, the appropriate internal grievance procedures must be followed first, and there are strict time limits which must be complied with. Case evidence shows that pay problems exist across a range of industries - including security, cleaning and hospitality - and include:

- Clients not being paid at all for time worked, or being paid only partial wages
- Clients not receiving other monies due, such as travel expenses, holiday pay or pay in lieu of notice
- Employers failing to issue wage slips
- Employers paying by cheque which they later cancel

|| *A South of Scotland CAB reports of a client who was employed on a six month contract. After working 2 weeks, he was dismissed when a colleague returned from her holiday break. He was not given any letter of dismissal, only told that his work was unsatisfactory. The client felt he had only been employed to cover the holidays.*

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The Scottish Association of Citizens Advice Bureaux - Citizens Advice Scotland
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Dismissal

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. A significant number of CAB clients report problems relating to dismissal. These include:

- Employers not providing adequate reasons for sacking employees and failing to conduct internal disciplinary procedures
- Clients being sacked for challenging employers over pay issues - for instance, complaining about being paid piece work rates rather than the national minimum wage
- Clients being sacked for challenging employers over working hours – for instance, refusing to work extended hours beyond an already agreed level
- Migrant workers being sacked for requesting their employer sign the Home Office Registration Form, and subsequently being denied pay slips, holiday pay, national minimum wage pay rates, pay in lieu of notice, written reasons for dismissal and a P45
- Clients being made redundant unfairly while pregnant
- Clients on temporary contracts being sacked for no reason before the contract has expired
- Clients being made redundant whilst off sick. This includes a client employed for less than a year being sacked by phone after one day off sick, and a client who was dismissed as he had accumulated six non consecutive sick days in the preceding year

Enforcement of employment rights

While employees may have recourse to various rights following the end of a period of employment, often these are not pursued. Client evidence indicates a number of issues relating to the enforcement of employment rights, including:

- Many CAB clients are ignorant of their rights, or are reluctant to enforce them because of the stress, time and costs involved
- Employers fail to provide written contracts of employment, making it difficult to determine exactly what rights have been breached
- Migrant workers who are returning home face particular challenges in enforcing their rights from abroad
- Employees in short term, casual employment generally have fewer rights than longer serving colleagues
- Some employers rely on their employees' ignorance and reluctance to enforce their rights individually, allowing them to continue unfair practices

CAS calls for:

- The UK Government to create a 'fair employment commission' to help vulnerable employees secure their rights at work and better enable them to take up and sustain employment¹

¹ Rooting out the Rogues: Why vulnerable workers and good employers need a "fair employment commission", Citizens Advice England & Wales and Citizens Advice Scotland December 2007

Case evidence

|| A West of Scotland CAB reports of a client who had worked for his employer for about four months. During that time, he had been off work for seven weeks, following an accident at work. Three days after he returned to work, he was dismissed by letter on the grounds of unsatisfactory work. He had not received any previous warnings, as stipulated in his contract of employment. As he had been employed for less than a year, he could not take his employer to tribunal.

|| A West of Scotland CAB reports of a client whose employment was terminated after two months. She had not taken any leave and came to the CAB to establish if she was owed any money. The bureau informed her that she was entitled to three and a half days holiday pay. In addition, as she had not been given any notice, she was also entitled to a week's pay in lieu of notice.

|| An East of Scotland CAB reports of a client who had worked for a fortnight in the security industry, and not been paid. The CAB assisted him in raising a grievance, which was ignored by his ex-employers. The CAB then assisted him in raising employment tribunal proceedings, for a sum of £615.25 wages (115 hours at £5.35 per hour) plus £30 travel expenses, which the employer had also promised to pay.