

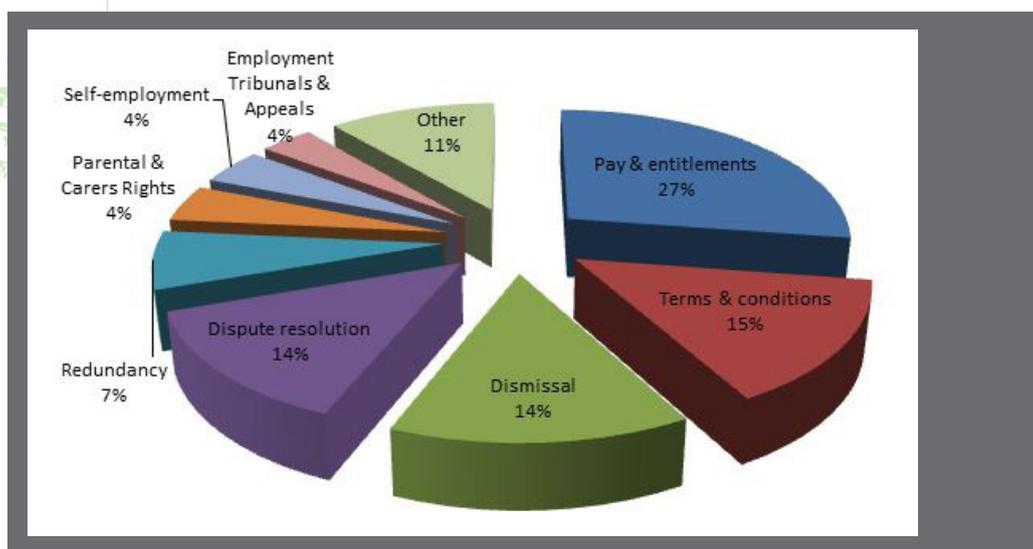
# Fair Enough?

A briefing paper by Angus CAB Social Policy Team



## Case evidence from Angus CAB

In 2014 – 2015 1,271 employment issues were dealt with by Angus CAB (SCIO). The following chart shows the issues in more detail.



The following case studies highlight some of the issues our clients have experienced:

- Client worked (full-time) in a bar for two years. She did not take any holidays during this time and received no holidays or holiday pay in lieu. No payslips were received throughout her employment.
- Client working well in excess of full-time hours (cited week was 53 hours) at well below National Minimum Wage (£6.50) – he was being paid £5.80 per hour.
- A vulnerable employee who worked seven days a week – between 30 and 70 hours per week. He was paid less than NMW level and apart from Christmas Day had no holidays. He did not get a pay slip or P60 so has no proof of pay levels.
- Case Study: Client (20 years of age; single parent to a young child). Secured employment on the understanding that her working hours would be 16 hours per week or more (thereby enabling claim for Working Tax Credit (WTC)). She worked 17<sup>1/2</sup> hours in her first week, but in the following two weeks she worked only 3 hours in total. She has no written contract. Client was awarded WTC on the basis of working 18 hours per week, but this change of circumstances means she no longer qualifies for WTC. Client now has to make a new claim for Income Support. Client wants to keep job as it is easier to obtain additional or alternative employment while in work.
- Pregnant client on a zero hours contract. Due to physical nature of job and not being offered office-based duties (as suggested by GP), client became unable to carry out duties resulting in claim for statutory sick pay (SSP) - circa three months prior to due delivery date. Her employer has not been providing her with payslips, resulting in difficulty claiming Maternity Allowance and securing Maternity Leave.
- Client having unauthorised deductions made from her wages. Although client was being paid at National Minimum Wage (NMW) level (equating to £260 per week), deductions for 'expenses' which client didn't claim (just under £80 per week) and for holiday accrual (just over £20 per week) resulted in a much reduced taxable gross (circa £160), thereby reducing the employers National Insurance liabilities.

## Employment rights and redress

The above case studies highlight instances where basic statutory rights have been breached. Below are a few of the statutory rights to which all employees are entitled:

- the right to a written statement of the main employment terms and conditions, and notification of any change in employment terms and conditions;
- the right to an itemised pay statement;
- the right to a minimum period of notice;
- the right to maternity leave and to return to work afterwards;
- the right not to have illegal deductions made from pay. This includes not being paid statutory sick pay, statutory maternity pay or wages for work done, for example, overtime;
- the right to paid holidays;
- the right to work a maximum 48-hour working week;
- the right to the national minimum wage.

When disputes between employers and employees cannot be resolved informally one option is to take the matter to an Employment Tribunal, which will hear the facts of the case and decide whether a breach of the employee's rights has occurred. If the Tribunal rules in the employee's favour, then it can require the employer to pay a financial award to compensate the employee or require the employer to make matter right in some other way.

From July 2013, people who want to make a claim to an employment tribunal are required to pay a fee to do so and a further fee if their case goes to a hearing. These fees are not insubstantial – for some claims it costs an individual up to £1,200 to get their claim heard by the employment tribunal, no matter how strong their case may be. Fee remission may be possible, but requires claimants to be on benefits, or have a low income and no other capital. If an employee is owed unpaid wages or other amounts, then these can frequently be for a lower amount than the fees to have their case heard.

The impact of introducing tribunal fees is clear from the amount of cases that are lodged. Official figures from the Ministry of Justice showed there was an 81% decline in the number of cases lodged in the Employment Tribunal in January-March 2014, compared with the year before, when no fee was payable.

Even if a tribunal makes an award in your favour it can still be difficult to obtain the monies awarded. In many cases, employees will only receive some of the money they are due or none at all, because an employer goes out of business or simply refuses to pay. According to research published by the UK Government, only 41% of claimants are paid their award in full. The majority of respondents are either not paid their award at all (46%) or are only paid in part (13%).

## Conclusion

It is in the interests of individuals, government and society as a whole that fair employment is promoted. The effects of unfair employment have a negative impact on health outcomes and an individual's quality of life. And if some employers are seen to get away with meting out unfair practices on their staff, other employers will rightly feel disadvantaged for complying with the law and treating their staff fairly.

Evidence from Angus CAB shows that more must be done to promote fair employment. From unfair dismissals, to workers not being paid, to the denial of holiday or sick pay, to discrimination against pregnant women or migrant staff, citizens advice bureaux see far too many instances of employees unable to enforce their basic rights.

The full report is be available here: [www.anguscab.org.uk/social-policy/](http://www.anguscab.org.uk/social-policy/)

**Angus Citizens Advice Bureau • [www.anguscab.org.uk](http://www.anguscab.org.uk) • Charity No. SC10051**

Arbroath office: 11 Millgate, Arbroath DD11 1NN

t: 01241 870661

Forfar office: 19 Queen Street, Forfar DD8 3AJ

t: 01307 467096

Montrose office: 32 Castle Street, Montrose DD10 8AG

t: 01674 673263