

Employment Justice

Is there a different way to make employment rights a reality?

Project briefing – Summer 2010

Poor employment practices are leading to exploitation, job insecurity and make a big contribution to levels of poverty across London. Many workers feel themselves too vulnerable to act as individuals and few are members of recognised trade unions. But there may be more the advice sector can do to engage with employers and prevent such problems arising. Those are the key findings of a Citizens Advice report based on research carried out across London bureaux between Sept and Nov 2009.

This report will inform the development of Citizens Advice Employment Justice project, supported by London's City Parochial Foundation. Hannah Breen of Your Potential, an independent HR Consultant hosted by City CAB, who is leading on the project, says that those findings are unlikely to come as a surprise to employment advisers but the approaches being developed represent fresh ways of working with employers.

Citizens Advice is campaigning for a more comprehensive system for enforcement of all employment rights and supports increased unionisation of workplaces. We are delighted that, following a Citizens Advice campaign, a new fast-track system for enforcing the payment of Employment Tribunal awards was introduced in April 2010. Significant progress is still needed to develop a rounded enforcement framework, however. We believe the approaches developed by the Employment Justice project may go further to bring improvements in employment practices more swiftly. This will be particularly true of employers who, rather than wilfully disregarding their responsibilities, have limited knowledge of their legal duties and poor HR capacity.

The initial research for Employment Justice was based on quantitative and qualitative data collated from the Citizens Advice client records systems; interviews with both employment specialist and generalist bureau advisors; and broader interviews with Central London Law Centre, Birmingham's Vulnerable workers project and Citizens Advice specialist support.

The commonly reported issues for the 2008/9 research period were:

- Dismissal issues, and particularly unfair dismissal
- Pay and entitlement, particularly relating to wages reductions
- Dispute resolutions, with grievance and disciplinary procedures
- Changes to terms and conditions
- Redundancy issues, particularly surrounding selection and pay
- Maternity issues, administration of and the employee rights.

Clients often talked of forced changes to terms and conditions, sick pay and holiday pay being withheld or refused. Maternity rights are often ignored, with entitlements and administration being badly handled, and that includes everything from the mistreatment of pregnant women to their return to work rights. It's also apparent that some employers have

ineffective grievance procedures, so many clients feel their job is threatened if they complain.

Another common cause of complaint is redundancy. Many advisers reported that employers reduced their workforce with scant regard to dismissal procedures, rights and entitlements. Advisers frequently reported instances of employers applying 'sham redundancy reasons', often deciding who is to be sacked then building a case to support it.

The research also identified sectors where bad practice was most prevalent. Retail is the worst performing sector, followed by cleaning services and restaurants – from the small independent through to large chains. Other pockets of bad practice were in security, construction, care and hotels.

It would appear that the most frequent offenders are employers with low skilled workers – often overseas or migrant workers - on minimum pay. Then there are large multi-site companies, particularly in retail and with low paid/low skilled managers and small owner-managed businesses. In many cases, clients reported having 'nowhere else to go' to seek advice when they had bad experiences with employers.

Advisers also reported that they are consulted as an alternative to speaking to a solicitor. Many clients couldn't afford legal services, but nor did they qualify for legal aid. Before accessing CAB services, employees had typically exhausted options available to them with their employer or felt that the employer's actions made it difficult for them to pursue the matter further. Most advisers recognise that their role is to empower clients to take action, but admit that this is not always an option; or is sometimes difficult given the time and resources available. The research report noted that employment specialists were passionate about their role and the support that they provide to clients - but there is no doubt that demand is beyond what they can offer.

The Employment Justice project not only seeks to investigate the problem, but also to identify ways to that CAB services can engage with employers to improve employment practices. Potential solutions needed to be cost-effective and to avoid the need for aggrieved employees to have difficult confrontations with managers. The research findings were discussed with employers and trade bodies from the sectors identified in the research, employer support organisations, advice agencies and other groups working on employment issues. Responses to the project were positive, and feedback from both employers and non-employers has fed into the development of broad approaches for bureaux to take in engaging with employers.

The project is entering a pilot phase to look in more detail at approaches to employers that could effectively improve practice. Citizens Advice bureaux across London will trial a range of approaches, including providing information to employers in the form of reference packs; surveying employers to understand the extent of their employment knowledge; and running information events. Each initiative will be evaluated, ready for a full launch in early 2011.

If you have experience of similar work, would like to find out more about pilots happening in your area or obtain a copy of the full report, please contact:

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