

SUBMISSION FROM CITIZENS ADVICE SCOTLAND

Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer service, 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 Adviceguide provides information on rights and helps people solve their problems.

We are champions for both citizens and consumers and in 2013/14 the Citizens Advice Service in Scotland helped over **330,000 clients** in Scotland and dealt with **over one million issues** overall. In addition, the Scottish zone of our self-help website Adviceguide received approximately **4.2 million** unique page views. In 2013/14, our citizens advice bureaux recorded a financial gain for clients of over **£125 million**.

Summary

- Citizens advice bureaux regularly see examples of extremely unfair treatment at work. Many of these cases, such as employees being paid less than the National Minimum Wage – or not being paid at all - women being dismissed when pregnant, instances of racist and sexist bullying in the workplace, or workers being denied sick pay or paid holiday, are illegal, but since the introduction of Employment Tribunal fees are very difficult for workers to challenge.
- Increasingly citizens advice bureaux are advising clients who are in work but are struggling to pay for essentials
- The number of new employment issues in citizens advice bureaux has risen by 12% between 2011 and 2015. This includes a sharp rise in advice given on pay and entitlements, dispute resolution and self-employment.
- The number of zero hours contracts in the UK is estimated to have grown to 1.8 million. Citizens advice bureaux in Scotland have highlighted a number of problems stemming from the way zero hours contracts have been used by employers, and their growing prevalence is a serious cause for concern.
- In-work poverty amongst adults and children has risen in Scotland since 2008.
- As well as leaving working families struggling, in-work poverty also means that individuals have little disposable income to spend in Scotland's economy.
- People who worked in low quality, stressful and insecure jobs have poorer general health and a lower satisfaction with daily activities than those that were unemployed.
- The Scottish Government should take action to improve enforcement of employment Tribunal awards in Scotland, and remove fees for bringing a claim following the further devolution process.

- New Statutory Guidance on Public Procurement should promote fair employment and fair pay as far as is legally possible.
- The Scottish Government and local authorities must work together to ensure that suitable, affordable childcare is provided for working parents in all areas of Scotland, to prevent childcare costs causing in-work poverty or forcing parents to leave their jobs.

Introduction

Scotland's Citizens Advice Service is the most common external source of advice for employees who experience problems at work. In 2014/15 clients sought advice on 50,625 new employment issues, a number that has been increasing in recent years. Additionally, citizens advice bureaux see first-hand the effects of in-work poverty, with a growing number of working clients seeking advice because they are struggling to pay for essentials. These twin problems – unfair employment practices and low paid jobs – represent a worrying trend in recent years and ones which CAS believes need to be addressed.

What makes a job 'good' or 'bad'?

Citizens advice bureaux in Scotland see many clients with jobs which would be easy to describe as 'bad'. These include situations where clients experience some extremely unfair treatment at work. Examples of this, which CAS presented in our recent report 'Fair Enough?'¹ include:

- Clients being dismissed in unfair circumstances, including for being off sick, attempting to take holiday, or informed of their dismissal by text message.
- Employees who were not paid at all by their employers, in one case for six months' full-time work.
- Employers who failed to pay their employees' income tax and national insurance leaving them to pick up the bill; and instances of clients paid considerably below the National Minimum Wage.
- Clients who were unfairly denied sick pay when seriously ill
- Employers refusing to allow employees to take paid holiday
- Women who were dismissed when they became pregnant
- Instances of racist and sexist bullying at work
- Migrant workers who were exploited and made to work excessive hours
- Cases where a client won their case at an Employment Tribunal, and were awarded several thousand pounds, but their ex-employers managed to avoid paying them any of the money they were due

¹ Fair Enough? Preventing Scotland's workers from unfair treatment – Citizens Advice Scotland, February 2015 <http://www.cas.org.uk/publications/fair-enough>

Many of these practices are illegal, but employees can experience significant barriers to upholding their rights. They may have attempted to seek justice in an Employment Tribunal, but been unable to afford fees of up to £1,200 to bring a case. They may have brought a claim and won their case, but their ex-employer has managed to avoid paying them the money they are due. Alternatively, they may not have been able to assert their rights due to fear of losing their job.

Additionally, citizens advice bureaux in Scotland advise clients who are in work, but are struggling to pay for essentials. In-work poverty is a significant concern for CAS, and the most recent figures from the Scottish Government show that almost half of working age adults in poverty (48%)² are from working households. It is no longer the case that securing paid employment by itself is a route out of poverty.

The misuse of zero hours contracts has affected CAB clients in both ways – by enabling ‘bad’ employers to treat workers in an extremely unfair way that ignores some of the most basic employment rights. Their misuse has also had the effect of causing in-work poverty and hardship for zero hours workers, who are left unable to budget, in debt and who have great difficulty securing support from the in-work benefits system due to an unpredictable income.

Drawing a precise distinction between ‘good’ and ‘bad’ jobs is not an exact science, but ensuring that workers’ basic rights at work are respected, they are treated fairly, and are given a suitable number of hours on a wage that ensures they can comfortably pay for essentials would be a starting point for determining a ‘good’ job.

Have jobs become better or worse since 2008?

Following the recession, Citizens Advice Scotland has become increasingly concerned about the rising number of clients who seek advice on employment issues, despite economic recovery.

Between 2011 and 2015³, new employment issues in Scottish citizens advice bureaux increased from 45,131 in 2011/12 to 50,625 in 2014/15, a rise of 12%. In that time there were particularly sharp increases in advice on pay and entitlements (up 29%), dispute resolution (up 23%) and self-employment (up 33%). The only areas of employment advice to decrease during the period were redundancy (down 31%) and Employment Tribunals and appeals (down 9%).

Based on this worrying trend, CAS published evidence reports in 2012⁴ and 2015⁵ to highlight the growing examples of unfair employment that bureaux have seen since the economic crash. The recession created a situation in which these poor practices became more common: employees put up with poor employers for fear of losing their job; workers accepted radical changes to their pay and hours rather than face a

² Poverty and Income Inequality in Scotland: 2013/14 – Scottish Government, June 2015
<http://www.gov.scot/Publications/2015/06/7453/2>

³ Due to changes in our case recording system, it is not possible to make like-for-like comparisons for 2008-2010

⁴ Fair Employment – Why Scotland’s workers need a Fair Employment Commission – Citizens Advice Scotland, February 2012 <http://www.cas.org.uk/publications/fair-employment>

⁵ Fair Enough? Preventing Scotland’s workers from unfair treatment – Citizens Advice Scotland, February 2015 <http://www.cas.org.uk/publications/fair-enough>

tough labour market; and employers tried to cut corners and slash costs in order to stay afloat.

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. Evidence from Scotland's citizens advice bureaux shows that unfair employment is still as common as ever, but people simply cannot afford to pay to bring their claim.⁶

The emergence of the zero hours contract in recent years has been a notable trend in the labour market. Recent ONS (Office for National Statistics) estimates indicate that the number of zero hours contracts in the UK has increased to 1.8 million.⁷ Citizens advice bureaux in Scotland have highlighted a number of different problems stemming from the way zero hours contracts have been used by employers, and their growing prevalence has given rise to a number of serious causes for concern.

Whilst zero hours contracts may be suited to particular types of work, such as casual or seasonal labour, the **misuse** of zero hours contracts is becoming a major problem, which should be addressed to prevent exploitation and hardship. Misuse can include situations where zero hours contracts are issued by employers inappropriately, such as where a full-time or part-time contract may be better suited and have led to a number of serious problems for CAB clients including destitution caused by a lack of work; serious debt and budgeting difficulties caused by a fluctuating income as well as difficulties accessing the benefits system. On top of this, we have reports of poor treatment and problems enforcing rights at work.

Prior to a slight decline in 2013/14, the percentage of adults in poverty in Scotland who were from a working household (in-work poverty) reached a record high of 52% in 2012/13. The proportion of children in poverty where at least one adult was in employment in their household rose from 45% in 2008/09 to 59% in 2012/13, before a small decline to 56% in 2013/14.⁸

Part of the explanation for this lies in pay. Prior to October 2014, the Minimum Wage had risen at a lower rate than inflation, as measured by the Consumer Prices Index (CPI), for five consecutive years from 2009 to 2013. Until 2008, uprating had

⁶ The Price of Justice: The impact of Employment Tribunal fees on CAB clients in Scotland – Citizens Advice Scotland, March 2015 <http://www.cas.org.uk/publications/price-justice>

⁷ Analysis of Employee Contracts that do not Guarantee a Minimum Number of Hours – Office for National Statistics, February 2015 http://www.ons.gov.uk/ons/dcp171776_396885.pdf

⁸ Poverty and Income Inequality in Scotland: 2013/14 – Scottish Government, June 2015 <http://www.gov.scot/Publications/2015/06/7453/2>

comfortably exceeded CPI each year.⁹ This has led to a situation where the real-terms value of the National Minimum Wage has become depressed compared with the cost of purchasing everyday essentials. Even with the recent 'National Living Wage' increase in the Minimum Wage rate for over 25s to £7.20 per hour from April 2016, the lowest-paid jobs will still be earning less than the current Scottish Living Wage of £7.85 per hour (which will also be updated prior to the 'National Living Wage' coming into effect).

Low pay must also be set against considerable cuts to support from the in-work benefits system. In April 2012, the eligibility rules for Working Tax Credit and Child Tax Credit changed, negatively impacting on tens of thousands of Scottish families.¹⁰ By April 2014, the number of in work families in Scotland receiving in work tax credit support had reduced by 97,300 compared to two years previously (a reduction of 27% in the number of families).¹¹ Changes proposed by the UK Government in the Welfare Reform and Work Bill will make further cuts, reducing the incomes of an estimated 250,000 households in Scotland.¹²

As a result of these changes, the contribution of social security support to family incomes has declined and will decline further. Citizens advice bureaux have advised clients who have lost their entitlement to tax credits and subsequently fallen into financial difficulties.

Since 2010 there has also been a substantial increase in the number of Jobseekers Allowance (JSA) and Employment and Support Allowance (ESA) sanctions imposed on claimants with the proportion of JSA claimants being sanctioned almost doubling from 2008 to 2014.¹³ The impact of sanctions is a major concern for CAS, as bureaux in Scotland have reported of advising clients who have been left without money, food or heating as a result of incurring a sanction.¹⁴ This is also leading to claimants becoming fearful of declining job offers, or leaving jobs even if they are inappropriate, exploitative or they are unfairly treated, for fear of being left without income due to a sanction. There is therefore less of an onus on employers to offer 'good' jobs that will attract jobseekers, as the benefits system compels claimants to take any employment offered to them.

⁹ Response to Low Pay Commission consultation on the National Minimum Wage – Citizens Advice Scotland, September 2014 <http://www.cas.org.uk/publications/response-consultation-national-minimum-wage>

¹⁰ Up to that date, families were eligible for Child Tax Credits if their income was below £41,300. This changed to £32,000 for families with two children and £26,000 for lone parents. Families were also able to claim Working Tax Credit if they were responsible for at least one child and worked at least 16 hours per week, but this was increased to 24 hours per week (with one parent having to work at least 16 hours).

¹¹ There were 258,500 in-work families in receipt of tax credits in Scotland in April 2014, compared with 355,800 in April 2012. Personal tax credits: provisional statistics: 2014 to 2009, HM Revenue & Customs - <https://www.gov.uk/government/statistics/personal-tax-credits-provisional-statistics-2013-to-2009>

¹² Initial Assessment of Budget Tax and Benefit Reforms – Scottish Government, July 2015 <http://www.gov.scot/Resource/0048/00481599.pdf>

¹³ JSA sanctions as a percentage of JSA claimants peaked at 6.77% per month before challenges and 5.83% after challenges in the year to March 2014, compared with the previous highest figures of 3.81% and 3.51% respectively in the year to July 2008. From 'Briefing: The DWP's JSA/ESA sanctions statistics release, 13 May 2015' – Dr. David Webster <http://www.cpag.org.uk/david-webster>

¹⁴ Sanctioned: what benefit? – Citizens Advice Scotland, July 2014 <http://www.cas.org.uk/publications/sanctioned-what-benefit>

Taking all these factors together, it is hard not to conclude that jobs have got worse since 2008, with increasingly poorly paid work less likely to be able to keep families out of poverty, less secure terms and working hours, and with basic employment rights becoming harder to enforce.

What effect might low quality/low pay jobs have on the economy and public health?

As highlighted above, citizens advice bureaux in Scotland have reported advising increasing numbers of clients who are in work, but struggling to pay for essentials. A high level of in-work poverty means that there are a significant number of individuals with little to no disposable income.

In Scotland, 18% of employees are paid less than the Living Wage, equivalent to 418,000 individuals.¹⁵ In their annual 'Minimum Income Standard' report, which is used to calculate the Living Wage, the Joseph Rowntree Foundation found that people working at the National Minimum Wage and taking up all in-work benefit entitlements were short of a basic minimum income as determined by members of the public. In 2015, a single person was £110 per week short of reaching the Minimum Income Standard, a couple with two children was £197 per week below the MIS, and a lone parent with one child was £118 short.¹⁶ The cumulative effect of these shortfalls adds up to millions of pounds that would be spent in Scotland's economy, but is not.

It is also important to ensure that unscrupulous employers who wilfully undermine their employees' basic employment rights do not gain an unfair advantage over fair employers. If rogue 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, and may be at a competitive disadvantage as a result.

Unfair employment doesn't just cause problems for the individuals concerned, it's something that causes problems for society more widely. As part of a major study of poverty and social exclusion in Scotland and the UK, researchers found that people who worked in low quality, stressful and insecure jobs had poorer general health and a lower satisfaction with daily activities than those that were unemployed.¹⁷ Unfair employment has an effect on public services, and many other areas of people's lives outside the workplace, and is unfair on employers who make efforts to treat their staff fairly and comply with the law.

It is important, on both wages and treatment of workers that acceptable basic standards are set and enforced to avoid a 'race to the bottom' with workers in low paid and insecure jobs paying the price.

¹⁵ Why is the Living Wage important? – Poverty Alliance
http://slw.povertyalliance.org/about/why_is_it_important

¹⁶ A Minimum Income Standard for the UK in 2015 – Joseph Rowntree Foundation, July 2015
<http://www.jrf.org.uk/publications/minimum-income-standard-uk-2015>

¹⁷ Employment, poverty and social exclusion – Poverty and Social Exclusion in the UK project, June 2014
http://poverty.ac.uk/sites/default/files/attachments/Bailey%2C%20Employment%2C%20poverty%20and%20social%20exclusion_0.pdf

What can the Scottish Government and public policy makers do to improve job quality in Scotland?

Whilst a number of legislative measures to improve job quality, such as levels of the National Minimum Wage, in-work social security benefits, and employment law are reserved to the UK Parliament, there are a number of actions the Scottish Government might take to reduce the number of 'bad jobs' in Scotland.

- **If the Scottish Government acquires the ability to remove fees to bring a claim to an Employment Tribunal following the further devolution process, CAS would recommend that they do so without delay.**
- **The system of enforcement of Employment Tribunal awards in Scotland should be strengthened. The Scottish Government should work to address this, by exploring a range of options for improving the system of enforcement in Scotland, compatible with Scots law.**

In Scotland, only 41% of people who have been successful in winning their claim at an Employment Tribunal actually receive the full amount they are owed, and only half actually receive any payment whatsoever.¹⁸ This is clearly unacceptable and action should be taken to improve the rate of payment. Whilst it may not be entirely appropriate for Scotland, the English 'Fast Track System' for enforcing awards has had some successful results in speeding up the process of making sure people are awarded what they are owed. This is an example of the sort of thing that could be considered.

- **Scotland's Fair Work Convention is a welcome development. The Scottish Government should examine the possibility of extending its role once it is fully established.**

For instance, the Fair Work Convention could work with Acas, trade unions and other stakeholders, such as the Citizens Advice Service to promote awareness of basic rights at work and how to assert them for employees and employers alike. The Fair Work Convention could also take on a role overseeing enforcement of employment law under Scots law, such as the proposed administrative devolution of Employment Tribunals.

- **The Scottish Government's welcome moves to promote payment of the Scottish Living Wage, and promotion of fair work through the Scottish Business Pledge should continue over the long-term.**
- **New Statutory Guidance on Public Procurement should require as far as possible that contractors pay at least the Scottish Living Wage and that they do not misuse zero hours contracts.**

Additionally, CAS believes businesses should be excluded from being awarded contracts if they have breached their obligations relating to the

¹⁸ Payment of Tribunal Awards 2013 Study – IFF Research, Department for Business Innovation and Skills, October 2013
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/253558/bis-13-1270-enforcement-of-tribunal-awards.pdf

payment of employees' tax or social security contributions, if they have failed to pay the National Minimum Wage to employees, or if they demonstrate evidence of unfair employment practices¹⁹.

- **The Scottish Government and local authorities must work together to ensure that suitable, affordable childcare is provided for working parents in all areas of Scotland. This is particularly important in rural areas, where provision is reported to be particularly inadequate.**

The Scottish Government must take caution to ensure that the additional childcare provided is affordable for working families to prevent childcare costs causing in-work poverty or forcing parents to leave their jobs.

Childcare costs can vary considerably depending on where in Scotland a family lives, with part-time nursery care in the most expensive local authority being £3,341 per year more than in the neighbouring local authority.²⁰ Part of the reason for this local difference may be due to the low levels of childcare supply reported by the majority of local authorities. Availability of affordable local childcare – or indeed any childcare at all – has caused problems for citizens advice bureau clients who, in some instances, have been forced to give up work, or prevented them from taking up jobs due to no childcare being available locally.

Additionally, the UK Government has the ability to make many positive changes which would help improve job quality in Scotland. CAS recommends the UK Government:

- **Remove Employment Tribunal fees**
- **Increase efforts to enforce payment of the National Minimum Wage and employees' Income Tax/National Insurance**
- **Review the support provided by the current tax credits and benefits system, to avoid the interaction between different forms of state support causing disincentives to work for parents with childcare commitments.**
- **As part of the clearer focus on tackling low pay and in-work poverty through the National Minimum Wage, the Low Pay Commission should study the methods used to calculate the Living Wage to determine whether a similar formula can be developed for NMW uprating.**
- **The youth rates of the National Minimum Wage should be reviewed to consider their relative value, their ability to tackle in-work poverty amongst young people, and to take into account the limited in-work support available from tax credits and benefits for this age group.**

¹⁹ CAS response to the Scottish Government's consultation on changes to the public procurement rules in Scotland – Citizens Advice Scotland, April 2014 <http://www.cas.org.uk/publications/cas-response-scottish-government%E2%80%99s-consultation-changes-public-procurement-rules>

²⁰ The 2014 Scottish Childcare Report - Family and Childcare Trust

- **A strategic approach should be taken across Government to ensure that rises in the National Minimum Wage and changes to the tax and benefit systems are complementary, with the aim of ensuring that workers are better off and do not face in-work poverty.**
- **There needs to be a fundamental and public review of the purpose of the JSA and ESA sanctions regime.**

Appendix – case studies from Scottish citizens advice bureaux

Low pay

- A West of Scotland CAB reports of a client who works in a shop for 16 hours a week with occasional overtime. Her income fluctuates, but is always low, and as she is 21 she is too young to claim Working Tax Credit. She is finding paying for essentials a big struggle, and has rent and Council Tax arrears from living in temporary homeless accommodation until recently.
- An East of Scotland CAB reports of a client who is in full time employment but is finding it difficult to cope financially. She is earning £7 per hour and works 35 hours per week, but is finding it difficult to manage to pay rent, Council Tax and other essentials. The client has Council Tax arrears and a debt with a 'club book'.
- A West of Scotland CAB reports of a client who works 10 hours a week at the National Minimum Wage. The client's weekly costs for travelling to work are 16% of her income. She would be eligible for £13.40 per week Jobseekers Allowance, but would need to spend another £5.40 in return bus fares which would not be much help.

Severe in-work poverty

- A South of Scotland CAB reports of a client who is suffering from severe financial hardship. The client works between 22 and 26 hours each week and has asked for extra hours but nothing is available. The client's monthly rent is 65% of her monthly income and has had to borrow from family to pay her rent in full each month. The client has been going without heating or food and has been showering at family members' houses. The CAB performed a benefit check to try and maximise the client's income, but unfortunately there was no entitlement to any other benefits.

Misuse of zero hours contracts

- An East of Scotland CAB reports of a client who had started a job on a zero hours contract. She only took the job on the condition that she was given at least 16 hours each week to qualify for tax credits to provide for her and her baby. However, she has only been given a total of three hours' work in the past two weeks, and her shift today (1.5 hours) has been cancelled. The client now does not have sufficient funds to provide for her child and is having to borrow money from her parents to pay for essentials.

- A West of Scotland CAB reports of a client who works as a carer on a zero hours contract. She is due to have a stent fitted as she has blocked arteries, but feels she cannot afford to do this as she has no right to sick pay other than Statutory Sick Pay and would not be able to afford to live on that. The client works between 30 and 70 hours per week, often leaving the house at 6AM and not returning until 10PM due to time spent travelling, but only gets paid for six hours per day of this. The client has developed kidney stones as she is not allowed to use her clients' toilets, and it is too far to return home to go to the toilet.

Discrimination against pregnant women

- An East of Scotland CAB reports of a client who was trying to obtain support for her daughter who works as an apprentice hairdresser. The client's daughter is expecting a child, but when she told her employer they told her she has to "get rid of it" or she will be sacked.
- A West of Scotland CAB reports of a client who is employed at a beauty salon. As soon as the client found out she was pregnant she told her employer. The employer reacted by saying that this was 'not good' and was 'a kick in the face'. Subsequently, the employer told her that she was dismissed. They offered her the alternative of becoming self-employed and renting the room she used in the salon, but the client did not want to do this and would have rather stayed on as an employee.

Not paid by employer

- A West of Scotland CAB reports of a client who believed she was employed by someone as a groom, which included accommodation and livery. The client was told she would be paid for the work and it was arranged for the employer to be reimbursed through a 'DWP job incentive scheme'. However, this did not happen as the employer had no employer's liability insurance. The client advises she was given no wages at all for the six months she has worked there. The client has calculated that she is due about £6,000. She feels she was further exploited during this period of employment as she was sometimes locked in the stables and was made to work seven days a week for long periods of time.
- An East of Scotland CAB reports of a client who succeeded in finding a job at a local fast food outlet. At the end of her first week, the client asked for her wages which she calculated to be £55, but was told that she was 'dismissed', and that as she was leaving there was no need for the employer to pay her. She has since found that this has been the situation with many of her fellow workers. Her 'employer' did not take any personal details from her - not even her name - before she started work and there is no contract of employment. She is seeking help to be paid the money she is due.

Dismissal

- Citizens Advice Direct reports of a client who had been working for the past four months on a zero hours contract. Usually she gets contacted by texts or

phonecalls to let her know when her shifts are. This morning she got a phone call that she had not turned up at work and would be sacked. However, she did not know that she was supposed to be at work, as no one had contacted her.

Tribunal award not being able to be enforced

- A North of Scotland CAB reports of a client who did not receive wages or holiday pay from his former employer. The client was successful in his Employment Tribunal claim and received an award of £3,283.34. The client waited 42 days but received no payment from his former employer. He then had to write to the Tribunal for 'an extract of the judgement' which caused further delay. In the interim his ex-employer attempted to get the company 'struck off' meaning the client had to write to Companies House to object. The objection was successful but this only delays the process for two months. The client now has his extract of award and it is uncertain what enforcement action he will be able to achieve in the time scale, given that the ex-employer reports that the company has no money. The client is in a catch 22 situation with a 'hollow victory' award - in that he is owed money but the respondent will not pay. The company will be struck off in two months' time meaning the client will have an award but no legal entity to pursue payment from thereafter. In order to see if Sheriff Officers can enforce payment, the client will need to pay further sums of around £100 but this may not be successful if his ex-employer has no money. The company is not formally insolvent and so the client is unable to get payment from the National Insurance Fund. The client could trigger the insolvency of the Respondent but the cost for this is over £1,500 (non-refundable) and there would still be no guarantee of getting any money thereafter as the Redundancy Payments Service will only pay holiday pay due if it is within 12 months. The time taken to get to Employment Tribunal, then get the award and then to trigger an insolvency makes this impossible.