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Citizens Advice Bureaux and Employment Disputes

Interim report

December 2013

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We would really like feedback on this report, particularly on ideas that it stimulates for future research directions. Please contact

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1.0 Introduction

This report details interim findings from the project *Citizens Advice Bureaux and Employment Disputes*. It comes at a time when drastic changes are occurring to employment conditions, rights and regulation in the UK, yet at the same time funding for employment related advice is being reduced. These processes are taking place under the broader political and policy ‘austerity’ programme of the Coalition Government and are fundamentally impacting upon people’s ‘access to justice’. The project is funded by the European Research Council and is part of a broader programme of study into third sector advice agencies and public conceptualisations of legal issues. The aim of the project is to examine how CAB clients pursue their employment disputes following their first interaction with the CAB and explores barriers to justice. Three specific questions are addressed: how the relationship between the CAB and their client shapes the approach to the employment disputes; how the different levels of support that are offered by CABx affect how clients identify, assert and defend their rights; and how advice work carried out across CABx enable the organisation and individual bureaux to campaign for social policy change in the field of workers’ rights.

To date, six bureaux are participating in the study. Three bureaux are located in England: Bristol, Southwark and Stoke-on-Trent; three in Scotland, including Greater Pollok and West Dunbartonshire. The third Scottish bureau prefers to remain anonymous. To protect the anonymity of individuals who have offered information for the project, each site has been allocated a letter, A – F.

Data is being collected in various ways: observing CAB advisor / client interviews; engaging in ongoing interaction with CAB clients as they work through their disputes; attending Employment Tribunal hearings; and interviewing CAB advisors and managers.

2.0 The participating CABx

2.1 Overview of bureaux

Table 1, below, provides a summary of participating bureaux, including their physical location, the population they serve and the model of employment advice provided.

Table 1: Summary of participating bureaux

Site	Location	% Ethnic minorities	% JSA claimants (% males)*	CAB employment service provided
A	London borough	46	4.5 (5.3)	<ul style="list-style-type: none"> ▪ Generalist advice for less complex cases; CAB advisors with more specialist employment knowledge provide basic advice and undertake limited case work up to and at Employment Tribunal; clients with on-going casework referred to local law centre ▪ Pro bono solicitor offering one session per month
B	Town and surrounds, Scotland	<1	5.9 (8.3)	<ul style="list-style-type: none"> ▪ Solicitor, acting for clients up to and at Employment Tribunal
C	Town and surrounds, Scotland	<1	5.7 (7.8)	<ul style="list-style-type: none"> ▪ CAB advisor with specialist employment knowledge (including legal training), advice up to and occasionally at Employment Tribunal ▪ Generalist advisors
D	Urban, England	9	4.5 (5.8)	<ul style="list-style-type: none"> ▪ Employment Solicitor will take on limited but often complex cases, up to but not at Employment Tribunal ▪ Generalist employment advice provided for less complex cases only.
E	Urban, England	16	3.5 (4.5)	<ul style="list-style-type: none"> ▪ CAB advisors with generalist/specialist employment knowledge provide advice for less complex cases, undertaking casework, up to and sometimes at Employment Tribunal ▪ Volunteer employment solicitor
F	Urban, Scotland	5	6.4 (9.2)	<ul style="list-style-type: none"> ▪ CAB advisor with specialist employment knowledge (including legal training), advice up to and occasionally at Employment Tribunal

Appendix 1 contains detailed demographic information about the areas in which the participating bureaux are located.

2.2 How bureaux advise clients with employment problems

Participating bureaux have developed and are developing a variety of systems for delivering employment advice to clients. These range from using generalist advisors to provide this advice, offering generalist advisors with focused training on employment matters to deliver this advice, using in-house solicitors with types of contract and funding, using the services of pro bono solicitors or referring work on to local law centres. Funding is a critical factor determining the form of employment advice provision within bureaux. Also relevant is the level of human resources available to bureaux, both in terms of the numbers and degree of expertise amongst bureaux staff and volunteers. There is a constant balancing act between available resources and the need to meet individual client needs.

Details of the services provided in each of the bureaux are contained in **Appendix 2**.

* Great Britain 3.3% (4.3%) males

2.3 How bureaux manage resources and models of service delivery

The changing funding environment for bureaux mean that models for delivering employment advice need to be continually reassessed. The Coalition government's 'austerity' programme has had a significant impact on bureaux. Benefit cuts and changes have meant ever-increasing demand for their services; while cuts to legal aid for almost all employment related disputes in England and Wales has directly impacted upon one bureau in the project (see Appendix 2). In addition to this, the drastic reduction in local government funding has significantly affected the resources available to participating CABx, who all have funding arrangements with their local authorities.

The changing legal environment presents other challenges to the way that bureaux respond to the needs of clients with employment problems. Particularly critical is the recent introduction of fees to lodge and have cases heard at the Employment Tribunal and the change in the qualifying period for bringing cases of unfair dismissal from one year to two. Legal remedies are increasingly difficult for many bureaux clients leading some bureaux to re-focus attention onto early intervention in employment disputes.

Below are some emerging trends amongst the study bureaux relating to the managing of resources and models of service delivery for clients with employment problems.

- Scottish bureaux rely primarily on local authority funding. However, the amount of money from this source has typically stagnated or, in some cases, decreased in recent years. Bureaux are expected to bear their share of the austerity measures being taken by local authorities. But more than this, efforts by these bodies to continually cut expenditure have, in some instances resulted in a lack of security about future funding commitment from local authority. The manager of Site C, for example, noted that this makes forward planning very difficult.
- English bureaux draw on a diversity of sources for funding and view this as critical to their on-going survival. In addition to local authorities, these bureaux are active in seeking money from various charities and trusts.
- The cut to the Legal Aid Agency (formerly the Legal Services Commission) legal aid monies for employment matters directly affected one bureau (Site D). This bureau has had to seek out other sources of funding in order to retain its employment solicitor. Bureau E is experiencing a dramatic increase in demand as sources of advice previously funded through legal aid dry up.
- Using solicitors to undertake casework does not appear sustainable in the current funding environment. The conditions attached to the funding secured by Site D to retain their employment solicitor limits her work to specific cases. The only other site that has a solicitor that provides on-going employment advice to CAB clients is Site B. This solicitor is funded under a unique arrangement with the local authority, which is likely to discontinue when he retires as he is providing services at well below the 'market rate'.

- Bureaux recognise that employment law is complex and that it takes a degree of expertise to provide adequate advice in this area. In some cases (notably Site E) this has resulted in a reluctance to offer such service. A manager at Site E observed:

“Tribunal work for benefits is challenging and legalistic but, again, no-one’s going to come back and bite you because you’re dealing with the system. Employment work you’re dealing with other independent individuals and they kick and they scream and they bite and they hit”

Likewise, another manager at this bureau was wary of the potential damage that could be done to clients’ relationships with their employers if the advice given was incompetent. However, across the board, bureaux identified that their clients had a need for practical employment related advice.

- New models of service delivery were evident in Site D, E and F in which generalist advisors were utilised to provide on-going casework in employment matters. Distinctive characteristics of this mode of service provision include:
 - **The importance of specialised training and on-going support:** recognising that particular expertise was needed to advise on employment disputes these bureaux are providing training for teams of paid workers and volunteers, with trainers providing on-going support to assist with new variants of issues as they emerged. On-going support was also viewed as a form of quality control.
 - **New ways of using volunteer advisors:** the typical volunteer advice model is that a client sees whoever is available. Recorded case management notes enable any advisor to pick up and carry a client’s issue forward. However, these employment-trained volunteers were undertaking on-going casework with the same clients. This continuity between client and advisor is viewed as valuable for employment disputes.
 - **Distinguishing between ‘simple’ and ‘complex’ employment cases:** generalist advisors who receive specialised training in employment matters are often restricted to working on less complex disputes. More difficult disputes may be allocated to in-house legally trained staff or referred on to lawyers at law centres or providing pro-bono services
 - **A focus on the early intervention in disputes:** general CAB training provides workers with strong negotiation skills. These can be exploited in employment disputes by interaction with employers before matters get to the Employment Tribunal stage. Cases where the employer–employee relationship has not completely broken down may also coincide with those deemed to be ‘simpler’ than those where submitting a claim to the Employment Tribunal appears to be the only course of action. In addition, the introduction of Employment Tribunal fees is more likely to make non-tribunal based resolutions attractive. By way of contrast, the use of solicitors to take on employment disputes through legal aid funding was generally restricted to matters constituting a ‘legal dispute’. This tended to inhibit an early intervention approach to legal problems.

3.0 What the data tells us

This section summarises the data collected from CAB clients who have approached the study bureaux with an employment problems.

Generally, project team researchers first come into contact with CAB clients who have employment problems by seeking the client's permission to sit in on an advice appointment with a CAB advisor. If this permission is given, the researcher will attempt to speak with the client at the conclusion of that meeting. The researcher tells them about the project. If appropriate, the client may be recruited to take part in the project at that point. Alternatively, CAB clients are recruited subsequent to that first meeting. It should be noted that the participant group is not a statistically representative sample of bureaux clients with employment problems.

Our aim with participants is to track their experiences, thoughts and feelings as they go through the process of attempting to address their employment problem. This approach requires the team researchers to have on-going interaction with participants. Effort is made to make contact with CAB clients at the earliest stage after their contacting the CAB about their employment problem and to continue interaction with them until their dispute is resolved or otherwise abandoned.

3.1 Summary of participants

To date, we have gathered data from 98 participants. Over half are women (59%). A minority have union membership (8%). Participants from English bureaux are more likely to have problems communicating in English (only 1 participant in Scotland had this issue). At the time of producing this report, 41% of participants had submitted an ET1 form. A summary of the participants is detailed in Table 2.

Table 2: Summary of participants by site

Site	Number	Sex		Difficulty with English	Union membership	ET1 submitted
		Male	Female			
A	20	8	12	3	2*	8
B	26	12	14	0	4	14
C	3	0	3	0	0	1
D	23	7	16	2	0	7
E	20	7	13	6	1	6
F	6	3	3	1	1*	4

3.2 Common employment issues participants take to CAB

The participants sought advice from bureaux on a range of matters relating to their work. Typically, participants were not able to articulate the problem in legal terms, but rather had a sense that they had been wronged in some way. In many cases participants experienced more than one employment problem. For example, a participant may consider that they have been unfairly

* We did not have data on union membership from one participant from each of Site A and Site F

dismissed from their job and that there is outstanding wages and holiday pay. Some recurring employment issues faced by participants are as follows:

- Changes to terms and conditions (hours, location of work, timing of hours, job role)
- Outstanding payments (wages, sick pay, holiday pay, redundancy pay, notice pay)
- Dismissal (procedural issues, basis of dismissal, constructive dismissal)
- Redundancy issues (legality of redundancy, rights around redundancy)
- Discrimination (including harassment / bullying)
- Pregnancy (treatment while pregnant, maternity pay)
- Disability and/or absence-related issues
- TUPE related issues
- Immigration related employment rights
- Internal workplace procedures / processes for the handling of grievances

Appendix 3 provides a summary of the employment issues faced by a sub-sample of the CAB clients who are research participants.

Appendix 4 sets out the stories of four of our research participants.

3.3 Some key initial findings

People go to a CAB with varying degrees of understanding about their legal rights and varying expectations about how the law may apply to their particular employment problem. CAB advisers are involved in complex processes of interpretation, diagnosing the client's problem and what can be done about it. They 'translate' back to the client how employment law relates to the dispute.

It is hoped that clients become empowered through developing greater understanding of what has happened to them and by becoming actively involved in the process of resolving the problem. The extent to which an advisor will encourage client involvement will depend upon the competencies and resources of the client, as well as the approach of the adviser. Our findings suggest that clients with greater levels of education (cultural capital), social resources (social capital) and economic capital are better able to navigate the system and inform themselves of relevant legal processes. Those with less resources and who struggle with communicating in English, are more reliant upon the advice and support of the CAB.

Key initial findings concern the following features of resolving employment problems:

- **The law relating to their employment problem:** the advisor will typically inform the client of the (probable) law relating to their employment problem. However, often the client does not fully understand terms such as 'constructive dismissal', 'unpaid holiday pay' or 'discrimination' or how they apply to their particular situation. In a sense law remains 'out there', relevant only in a very vague way to the participants. Where the CAB is able to provide legal support to run the case on the client's behalf, this might not matter so much. However, where clients deal with tribunal processes themselves, ignorance has consequences, only partly offset by employment's judges' attempts to make employment courts less formal.

- **The process:** many participants are unaware of the standard path involved to implement their legal rights. They may engage in one aspect of the process with little or no knowledge of possible subsequent courses of action, should their efforts fail to produce results. Some may benefit from a broader understanding of the process as a whole. Guidelines offered by the tribunal service itself appear inadequate, something often talked about by participants.
- **The potential timescales:** many participants felt that the process was defined by a sense of waiting – for the employer to act, to hear back from the CAB, for news from the Employment Tribunal Service. Having a greater sense of the timeframes involved at various stages may help alleviate this experience, as would having an understanding of why the process can take a very long time.
- **The roles of the various parties:** some participants were not sure of what they were supposed to do during the process, or of the roles of a CAB advisor, of Acas or the Employment Tribunal. Understanding the roles, particularly of Acas, would enable CAB clients to make use of the resources available to them in a constructive and empowered way.
- **The potential costs:** a number of participants were fearful that they would be made to pay the employer’s costs should they lose their claim. In some situations, intimidation tactics were applied by employers and/or their legal representatives. Participants seldom had a sense of the psychological and emotional cost, particularly if a case goes to the Employment Tribunal.
- **Attending the Employment Tribunal:** Almost all participants who faced the prospect of, or attended an Employment Tribunal were apprehensive about it. Few had a good sense of the process involved or what would be expected of them. Many were intimidated by the unfamiliar language and concepts used in the tribunal and were concerned that they would not be able to communicate their points articulately. Our data indicate that Tribunal judges attempt to ensure that participants have their say, but this does not necessarily allow them to do so as the whole experience is power infused and alien to them.
- **Enforcement of awards:** it came as a surprise to some participants that they would not automatically receive the financial remedy awarded to them. CAB clients could benefit by being informed about the chances of having to take steps to enforce any award made to them, including the costs involved in doing so.

4.0 Directions for future research focus

In the next phase of our data collection and research analysis, whilst continuing to investigate the three research questions set out in section 1, we will focus our attention on themes from the data collected to date. We hope that this report has stimulated questions and ideas in our readers. **We welcome any feedback or ideas for further areas to be explored by the research team.** Please contact Morag McDermont (morag.mcdermont@bristol.ac.uk) or Nicole Busby (nicole.busby@strath.ac.uk) with responses or to discuss the content of this report.

We set out below the research team's ideas about these emergent issues.

The newly introduced **fees** to lodge a claim and then have that claim heard at the Employment Tribunal are of critical interest. Having collected in-depth data prior to the fees regime and we are taking steps to ensure that we have adequate data in the current context. Key areas of interest include:

- Do fees act as a deterrent to CAB clients?
- What are the practical problems in seeking fee remission?
- Do CAB and clients shift towards the earlier intervention of employment problems?
- Do employers demonstrate a reluctance to settle problems out of court in the belief that they will be unlikely to be taken to an Employment Tribunal?
- Will CAB advice shift towards encouraging clients to seek legal redress in other legal arenas such as the Sheriff/County Courts?

Utilising demographic and other data, our next stage analysis will draw out the impact of the **broader economic climate**. We would seek to understand the ongoing effects of the recent recession: do concerns about future job prospects or about an employer's financial circumstances become part of calculations about how to deal with employment problems?

We will consider the effect of the **varying degrees of need** clients bring to CABx, particularly with respect to their capacity to contribute towards the resolution of their employment problems. We will explore further what this means for the advisor's role in assisting clients work through their problems and for clients' perspectives on the legal process involved.

We are interesting in **CAB clients' experiences of Employment Tribunals**, including clients who are accompanied / represented by a CAB advisor and those who are unaccompanied. We will explore how experiences vary when the employer is represented / represents themselves. We are interested in how judges interact with parties in these various scenarios.

We are interested in clients' perceptions of **the role played by Acas** in the resolution of employment disputes, and how CAB advisers interact with Acas on behalf of clients. We will be interviewing Acas conciliators to understand their perspective, particularly as to how their role has changed in view of the new procedural legislature, which enforces 'pre action conciliation'.

Appendix 1: Description of localities of the participating bureaux*

Bureau A

Bureau A is located in an English city. It comprises two offices, which serve a population of nearly 295,000¹. The population is growing and is estimated to reach approximately 355,000 by 2026². The community is ethnically diverse. Just over half (54%) the population are White, 27% are Black, and 9% are Asian³. Only 61% of residents were born in the UK. This compares with 86% of people in England. Life expectancy is 10.4 years lower for men and 8.6 years lower for women in the most deprived areas of this location compared with the least deprived areas⁴.

The area in which Site A is based hosts a number of professional services firms, as well as companies operating in the press and publishing industry. The percentage of people working in finance, IT and other business activities is notably higher in the location (at 43%) compared with Britain as a whole (22%). The percentage of people claiming job seekers allowance is 4%, which is slightly higher than that in Britain (3%).

Bureau B

This bureau is located in Scotland. It has offices in three separate locations and serves an area populated by approximately 90,000 people, over 99% of whom are White⁵. Population levels in the local community have decreased for the past three decades and are expected to continue to do so⁶. The life expectancy for both men and women in the area is the second lowest in Scotland and lower again than the UK average⁷. Homelessness rates are the highest in Scotland, with young people being particularly affected (almost 40% of homeless are aged 25 years and under)⁸. In terms of the labour market conditions, the job density is 0.60 (that is, there are 60 jobs per 100 working age people)⁹. This compares with a rate of 0.76 in Scotland and 0.78 in Britain. There are higher rates of people claiming job seekers allowance (6%, compared with 4% in Scotland and 3% in Britain)¹⁰. The higher rate is particularly noticeable amongst men, 8% of whom are claimants compared with 5% in Scotland and 4% in the UK¹¹. A greater percentage of people in the area are employed in public administration, education and health (43%), compared with Scotland and Britain (30% and 27% respectively)¹².

Bureau C

This Scottish CAB serves a population of approximately 120,000 people of whom over 99% are White¹³. A greater percentage of people in the area have no qualifications compared with levels in Scotland and Britain¹⁴. The life expectancy in the area is also lower than that in Scotland and Britain¹⁵.

The location is economically depressed. There are less than 60 jobs per 100 people aged 16-64¹⁶. However, many residents commute to a nearby large city for work. The percentage of the community claiming job seekers allowance is nearly 7%, which is greater than the 4% in Scotland and 3% in Britain.

Bureau D

* Statistics for participating CABx locations are compared with British or UK figures, depending on how they are collected by the source organisation from which they are drawn.

Site D is a bureau based in an English city with a population of nearly 250,000¹⁷. Nine per cent of this community is non-White, the greater proportion of whom are Asian or Asian British¹⁸. The city is the ninth most deprived Unitary / Metropolitan authority in England (out of 92)¹⁹. Almost 30% of children in the city are growing up in poverty, compared with 21% in England²⁰. Further, almost 20% of the population have no educational qualifications²¹. This compares with 10% in Britain. The percentage of people in the city claiming job seekers allowance is 5%, which is higher than that in Britain (3%)²².

Bureau E

This English CAB is an inner-city bureau that serves a local population of approximately 430,000²³, a figure that represents growth of 11% since 2001²⁴. The population is ethnically diverse, comprising 16% of Black and minority ethnic groups²⁵. The main language spoken after English is Polish, followed by Somali²⁶. Almost 2% of the population do not speak English or do not speak it very well²⁷. While the life expectancy of men and women is only slightly lower than that in England as a whole²⁸, there is some disparity within the city itself. The life expectancy is 9.4 years lower for men and 5.8 years lower for women in the most deprived areas of the city compared with the least deprived areas²⁹. Residents have a fairly high level of educational qualifications: 43% of working age people have NVQ4 and above compared with 34% of in Britain³⁰. The percentage of people claiming jobseekers allowance is similar to that of Britain (4% and 3% respectively)³¹. The job density is 0.92, which is higher than that in Britain (0.78)³². Ninety per cent of jobs are in services. This includes one-third of all work being in finance, IT and other business activities, and 29% of all jobs being in public administration, education and health³³.

Bureau F

This bureau is located in a Scottish city and serves a local population of just over 32,000³⁴. The population is mainly White. The largest ethnic group is Pakistani, which constitutes 4% of the overall population³⁵. Poverty has long been an issue in the area³⁶. Six percent of the population claim job seekers allowance (9% for males). This is higher than that in Scotland (4%) and Britain (3%)³⁷.

Appendix 2: Employment advice services provided by participating bureaux

Bureau A

This bureau holds morning drop-in sessions in its two locations on alternate days of the week. A receptionist will obtain basic details from clients about the problem area for which they are seeking help. Clients will then go through an initial 'gateway' interview*. Gateway assessments are also made by telephone and via email. Sometimes this can result in people being provided with basic information or being signposted to further sources of information and help. Initial employment advice given at this point may include relaying information from Advisor Net, recommending the client contact their trade union or the Acas advice line, or suggesting they refer to government websites.

If the client's problem requires further face-to-face advice, the gateway assessor will, in consultation with the advice session supervisor, decide whether to refer them to a generalist CAB advisor, make an appointment with a pro bono solicitor who offers services to the CAB, or refer them to the local law centre. Clients will more likely be referred to the solicitor when they have already lost their job or important timeframes are approaching, such as the submission of an ET1 form. In contrast, disputes at earlier stages, for example, at the point of disciplinary and grievance procedures or where negotiation with the employer may still be possible, will likely be referred to a generalist advisor or the law centre.

Over the past eighteen months short term Advice Services Transition Fund money has been used to build in-house employment expertise. One paid generalist advisor received training from the Citizens Advice Specialist Support Unit and the local law centre. This meant he could undertake more casework for clients, providing on-going assistance to progress disputes through the tribunal process. Casework could involve identifying legal issues, helping write letters to an employer, completing an ET1 form, responding to an ET3 and preparing documents for the Employment Tribunal. On limited occasions, he would accompany a client to their Employment Tribunal hearing. The number of cases the generalist advisor could take on was constrained by the funding available. Other generalist advisors would also provide advice to clients with employment issues, helping clients identify relevant legal issues and supporting them to take the next steps in resolving the dispute. Bureau advisors sought to empower clients by encouraging them to undertake as many tasks as possible to seek a resolution to their problem, assessing clients' capabilities to do so.

The ending of Advice Transition Funding in March 2013 reduced the paid generalist advisor's capacity for casework. More clients are referred to the local law centre, which has expertise in employment matters, either at the gateway appointment or after being seen by a generalist advisor. The law centre holds weekly 2 hour outreach sessions at one of the CAB locations.

A pro bono solicitor holds monthly evening sessions at each of the bureau locations, with four to five clients on each occasion for approximately half an hour each. He provides a legal assessment of the client's problem, interpreting what the case is about and advising on possible courses of action and, if appropriate, whether the case has merit for referral to an Employment Tribunal. He may also outline options for legal

* Gateway is an assessment and triaging process, whereby a short interview is undertaken to determine the general nature of the problem, the competencies of the client and the course of action best able to help the client with their problem.

representation including solicitors paid on an hourly rate, solicitors contracted on a no win no fee basis, and the use of insurance to cover legal expenses. The solicitor runs his own law firm; if he feels the case to be strong, may offer to represent the client. The pro bono solicitor observed that approximately 80% of clients he offers to act for take up his services. On some occasions, he will refer a client back to the CAB.

Bureau B

The three offices of this bureau offer half-day drop-in times four days per week where people can walk in off the street for advice on an employment problem. There are no receptionists. Rather, a notice requests that people ring a bell to indicate to CAB workers that they are waiting. People will then be seen by a generalist advisor as one becomes available. Waiting times vary, from just a few minutes to a couple of hours.

The generalist advisor will attempt to deal with the issue as much as they can in the first meeting. They may suggest a course of action the client can take, such as initiating grievance procedures, and may assist them with this process, for example, by helping them draft a letter to the employer. If the employment matter is complex and/or may possibly result in a claim being made to the Employment Tribunal, an appointment may be made for the client to see a solicitor who provides a service in the CAB offices. Decisions regarding whether to refer clients to the solicitor are generally made by the bureau manager. The aim is to maximise bureau resources, encouraging generalist advisors to maintain and build their skills by dealing with employment issues as much as they can and protecting the limited time of the solicitor. This is balanced against the need to provide a good service to CAB clients. If a client is a member of a union, CAB staff will suggest he or she seeks assistance from the union.

The solicitor is contracted to work as the Citizens Advice Affiliated Solicitor, whereby he provides legal services the bureau clients. In terms of employment advice, his role includes writing letters to the employer, lodging the ET1, interacting with Acas and representing the client at an Employment Tribunal. This service is free to the CAB client.

The first meeting between the CAB client and the solicitor will be in the CAB offices. The solicitor will be provided with the bureau's background notes from meetings with the client. If it emerges that the CAB client requires on-going assistance from the solicitor, the solicitor will formally take the CAB client on as his own client. Future interactions may take place in the CAB offices and/or via telephone or email. Notes taken by the solicitor on a case will be his own and will not be kept on the CAB record taking system.

Bureau C

This CAB provides a drop-in service four half days per week and occasional Saturdays. There is no receptionist. Rather, people wait in the waiting room until a CAB worker is available to see them. The CAB operates a triage system, similar to the English 'gateway' system. Experienced CAB advisors and/or those specially trained in diagnostic skills will conduct a short, initial interview. If the person has an employment problem, the gateway worker will decide whether the client should be seen by a generalist advisor or by the specialist employment advisor based on, at least in part, the complexity of the issue, including the likelihood that it may go to an Employment Tribunal. During our research the specialist employment advisor reduced her hours at the bureau and, to our knowledge, no specialist employment advisor has taken over the shortfall in her time.

The specialist employment advisor has legal training, working towards becoming a fully qualified solicitor. She and the generalist advisors aim to empower clients by encouraging them to take active steps towards resolving the problem they face themselves. This may mean suggesting the client write a letter to their employer, albeit providing guidance on what to include in this. Greater assistance is provided for clients who need it. The CAB does not usually offer assistance at an Employment Tribunal hearing; there are occasional exceptions when a client's needs can be matched by available resources.

Bureau D

This bureau offers a drop-in gateway service four full days per week. A receptionist will obtain information about the general nature of a client's problem and will provide a ticket allotting a place in a queue for a gateway interview. The bureau is one of the busiest in the country: in order to keep waiting times for the gateway assessment to under two hours the number of people in the queue is restricted. Gateway interviews are also provided by phone, with the bureau being part of a national network of telephone gateway. Email communication also acts as a gateway filter, if enough information is provided by clients for the assessor to determine the next course of action.

Gateway interviews are conducted either by a gateway assessor (who may also be a generalist advisor) or a specialist advisor. On specific mornings the bureau's specialist employment advisor undertakes face-to-face gateway assessments for clients who have identified their problem to be employment related. In the gateway interview it will be decided whether the bureau can provide further advice and by whom.

The CAB's approach to dealing with clients who have employment problems changed during our research. Until March 2013, the Legal Services Commission provided money to pay for the services of the specialist employer advisor, a solicitor, to advise clients eligible for legal aid. The solicitor would mainly take on cases deemed to require formal legal action and which could go forward to tribunal. She would undertake the work required to prepare clients for an Employment Tribunal hearing, but would not represent them at the tribunal itself. If necessary (and possible), she would attempt to obtain the services of a pro bono barrister to represent a client. If the client's issue was not considered to require formal legal intervention and/or they were not eligible for legal aid, they would normally be seen by a generalist advisor. Generalist advisors liaised with session supervisors to ensure the accuracy and appropriateness of the advice given. One of the generalist advisors (who left during the research) had a law degree and a postgraduate diploma in legal practice and expertise in employment matters.

Since the cut to legal aid funding, the bureau has obtained Big Lottery funding to retain the specialist employment advisor with a refocused role. She will train a small number of generalist advisors in employment issues and supervise their advice provision through an employment advice clinic. The generalist advisors will deal with the simpler employment problems, with greater focus on early intervention, rather than formal legal action. In this way it is hoped that the CAB will be able to achieve settlements for clients before the matter gets to the Employment Tribunal stage. The solicitor will still be involved in some casework: on cases that are complex and/or cases of strategic importance in social policy terms, such as discrimination, zero hours contracts and issues surrounding agency work.

Bureau E

This bureau has a drop-in service every weekday morning providing a gateway service. Depending on resources, gateway interviews are also available via the telephone and email. High levels of demand for drop-in gateway interviews mean that people not seen by the end of the drop-in period are asked to return another day. If the client has an employment problem that the CAB can provide further direct assistance with, besides signposting and information provision, they will be referred to a generalist advisor or a volunteer employment specialist who is a solicitor.

The bureau changed its approach to dealing with employment matters just prior to our beginning the research. Previously, generalist advisors restricted their assistance to providing information or documentation, for example informing clients about their legal rights, explaining the Employment Tribunal process or providing an ET1 form. Recognising that clients who could not afford a solicitor needed further help, the bureau is now running an experimental programme of training a group of mainly volunteer generalist advisors on employment issues to enable them to undertake client casework. Training and on-going support is provided by the Citizens Advice Specialist Support Unit through 'webinars' and coursework.

The gateway assessor may therefore refer a client to a generalist advisor receiving specialist employment training – if the case is likely to require on-going assistance - or a regular generalist advisor. The decision made at gateway attempts to balance available resources and client needs, taking account of the client's apparent ability to deal with aspects of the issue themselves or if the client can receive support elsewhere, such as through a trade union.

The employment-trained advisors will have contact with the client on an on-going basis, dealing with the matter right up to and including the Employment Tribunal. Emphasis is placed on early intervention in disputes before formal legal action, with advisers actively interacting with employers via telephone or letter to mediate and negotiate. This represents a distinct shift in approach for the bureau. Previously there had been concerns that communicating with employers would make matters worse; now the bureau is finding that addressing issues directly in the early stages has resulted in positive outcomes for many clients, including significant financial settlements.

Generalist advisors providing employment advice are informally supervised by the bureau advice service manager, himself receiving specialist employment training and who has extensive advice and managerial experience.

Currently, bureau managers would like those in receipt of the specialist employment training to remain generalist advisors. The rationale being that this will enable them to retain their ability to provide advice across the problem areas covered by the bureau. However, it is recognised that the degree of expertise required for employment makes this problematic.

Clients whose cases are normally more complex may be referred to a volunteer solicitor, who is an employment specialist, and they will provide support up to but not at the Employment Tribunal. The volunteer employment solicitor sees clients' one morning a week, as well as undertaking ongoing case work. Referrals may also be made to the local law centre for complex cases that cannot otherwise be catered for. Further, a law firm specialising in employment law puts on a short advice clinic for clients over one lunch

period per week. The service provided is generally limited to signposting to further sources of information and advice and the provision of written information.

Bureau F

As of June 2013, this bureau provides a specialised employment service to people living locally and, resources permitting, the wider metropolitan area. A legally trained person, although not a fully qualified solicitor, has been employed on a part-time basis to undertake employment casework and train generalist advisors in employment matters. Training typically involves advisors shadowing the specialist employment advisor as she provides advice to clients and follow-up discussions between the specialist and generalist advisors on the issues raised.

People with an employment problem can attend one of the bureau's drop-in sessions. After informing the receptionist of the general nature of their enquiry, they will be seen by the specialist employment advisor, if she is available, or else by a generalist advisor. The generalist advisor may then refer the matter on to the specialist. The majority of employment issues beyond basic enquiries are seen by the specialist employment advisor. Some simpler cases are allocated to the generalist advisors receiving employment training, that is, cases which do not appear to involve a complex legal issue and/or still are at the stage of possible resolution within the workplace. The specialist advisor supports the generalists by discussing the client's employment problem prior to the generalist meeting with the client and by checking on the advice given by the generalist advisors.

The bureau also has a dedicated email address specifically for people with employment related issues. This email is responded to by the specialist employment advisor, who will then make an appointment with the person if appropriate.

The specialist employment advisor and the generalist advisors being trained in employment matters will assist clients to work through their employment issues. The generalist advisors are generally limited to assisting the client in interacting with the employer, whilst the specialist employment advisor will undertake the work required to prepare a case for an Employment Tribunal. In principle, the specialist advisor may take a matter to the Employment Tribunal. However, the demand for this will be monitored on an on-going basis and balanced against available resources.

Appendix 3: Nature of CAB client participants' employment problems

Participant (anonymised)	Nature of employment problem
BiC100	Dismissed because employer said employee failed to conduct rostering duties correctly and was dishonest about a personal relationship with a colleague. Employer felt grievance hearing was a sham and that had no chance to defend himself.
BiC104	Employee not given hours as per contract and then made redundant. Issue over unpaid wages and redundancy pay.
BiC105	Employee was dismissed. He appealed the decision. The appeal was considered by the manager who dismissed him. The employee's trade union lodged an ET1 in but it was time barred. His trade union provided him with no further help. The employees felt aggrieved at their incompetence.
BiC106	Employee feels he was dismissed unfairly following an argument with his manager, while employer claims he resigned.
BiC107	Claim for unpaid wages. Employee has no contract or pay slips.
BiC108	Employee had been working for 10 years without a contract before being laid off. He sought advice on legality of the layoff and wanted to receive money from days he was available for work but not given work and holiday pay.
BiC109	Employee was dismissed for poor workmanship. He disputes he undertook the work in question. Also queries the disciplinary procedure.
BiC110	Employee was bullied by manager. She has become dissatisfied with her trade union who have not managed to speed up long running grievance. Employee is off sick on stress leave and sought help on avenues to progress her grievance.
BiC112	Employee claims dismissal for gross misconduct as unfair.
BiC113	Issue of unpaid wages and grievance with Department of Work and Pensions for placing employee with the employer in question.
BiC114	Carer employee accused of patient neglect. She disputes her actions constituted gross negligence.
BiC116	Employee was dismissed for gross misconduct for a matter he sees as quite minor. Issue complicated by TUPE.
BiC117	Employee questioning lawfulness of reduction in hours of work.
BiC118	Employee questioning lawfulness of reduction in hours of work.
BiC119	Issue of unpaid wages.
BiC120	Employer had tried to change employee's shift pattern. Employer dismissed her for lying about her availability to work, which they consider constituted gross misconduct. Employee's previous request for flexible working proved problematic in practice.
BiC121	Employee not paid while on maternity leave.
BiC122	Issue of unpaid wages and late payment of wages.
BiC123	Issue of late payment of wages.
BiC124	Restructure in employer organisation resulted in staff having to re-apply for jobs. Employee unhappy at her new role which has lower salary and shift work.
BiC125	Employee is suspended on full pay and her employer is trying to demote her. Employee seeking advice on legality of this.
BiC126	Employee believes he was dismissed without good reason and that the charges were not properly investigated.
BiiC100	Employee complained of bullying and being disciplined unfairly, which has impacted on pay and conditions.
BiiC101	Employee feels employer is trying to dismiss him because they don't think he is fit for work. Employee feels bullied.
BiiC102	Issue about pay rate. Employee feels he should be on a higher rate of pay on par with permanent workers.
BiiC103	Issue of unpaid wages and holiday pay.

Appendix 4: Vignettes of CAB client participants

Rosa – unpaid wages

Rosa is a young woman from Southern Europe. She is educated to master's level and moved to Britain in search of work. She obtained a job as a cleaner. However, Rosa did not receive the amount of pay she expected or on the dates she expected and eventually resigned. Rosa was not confident in her English ability, so sought help from a friend to communicate with her former employer to seek out her outstanding pay. The employer responded that Rosa owed tax and had been overpaid.

Another friend directed Rosa to the CAB. Rosa had not heard of the organisation before. After a gateway interview, an appointment was made for Rosa to see a pro bono solicitor who holds a monthly surgery at the bureau. The solicitor summarised the legal issues involved in the dispute and told Rosa she would need to fill in an ET1 form, directing her to the Employment Tribunal website. Rosa had some difficulty understanding what the solicitor was saying. After the meeting Rosa attempted to complete the ET1 form. She found this challenging, but did eventually submit it on her own.

Prior to her hearing, Rosa received a communication from the Employment Tribunal Service stating that the employer she named in the ET1 refuted that they were her employer. The party claimed that they subcontracted cleaning work to another company who were Rosa's employer. By this stage, Rosa was living elsewhere and working as an au pair. She sought assistance from her au pair employer, who was a solicitor, to write a letter to the Employment Tribunal Service stating that she named the company whose logo was on her employment contract and payslip.

Rosa was very apprehensive about attending the hearing. In particular, she was concerned that her English was not good enough to effectively communicate in the formal setting. However, she decided against seeking out translation services.

At the hearing itself the judge made efforts to ensure that Rosa could participate effectively. The party Rosa had named as the employer represented themselves at the hearing. The company the respondent claimed to be Rosa's real employer failed to attend. The judge determined that the party who had failed to appear was Rosa's employer and in their absence a default judgement was made in favour of Rosa. To date, Rosa is yet to receive the money awarded to her.

Sarah – discrimination

Sarah is 30 years old. She worked as a housekeeper in a hotel. She felt bullied and harassed in this job, a situation which appeared to be exacerbated when she became pregnant. Sarah was particularly upset one day and walked out of her place of employment. She provided her employer with a sick note, but did not receive sick pay. Her employer informed her that she had walked out on her job and, as such, had resigned. No holiday pay was forthcoming.

Initially Sarah did not think that there was anything she could do until a friend suggested she go to the CAB. Sarah felt nervous at the prospect. She had never been to the CAB before and was apprehensive about

talking about legal matters. Sarah had a meeting with a generalist advisor and was informed that because she had been in her place of employment for less than one year she did not have any legal recourse. Later that same day, though, a specialist employment advisor from the bureau contacted her and told her that because her problem related to her pregnancy it was likely that she did have a case.

Sarah then met with the bureau specialist employment advisor on a number of occasions. The advisor wrote letters to the employer, completed and lodged an ET1 form, negotiated on Sarah's behalf via Acas, and presented Sarah's case at the Employment Tribunal. Sarah was very grateful that the CAB advisor took the lead on these matters.

Sarah was extremely nervous about giving evidence and being cross-examined at the Tribunal. She gave incorrect evidence during cross-examination (quickly cleared up) which she put this down to her nerves. The hearing took a number of days, but Sarah only attended part of it. By this stage she had a young baby to look after, but also found the process intimidating and was uncomfortable with people talking about her.

Sarah won her case and was awarded damages. However, the employer subsequently appealed the Employment Tribunal's decision. The appeal hearing is pending.

Brian – constructive dismissal

Brian had worked as a car valet in a car sales yard for 8 years. During this time, he claimed to have experienced verbal abuse from his immediate manager, the son of the owner. Brian had talked with the owner about the abuse on a number of occasions. This would improve the situation temporarily, but the bullying would resume shortly thereafter. When Brian attended a hospital appointment his manager phoned him, swearing at him and demanding he return to work. Brian collapsed shortly afterwards and was advised by a nurse not to go back to work. Brian resigned from his job.

Initially Brian did not intend to seek legal redress for the way he had been treated at work. After some reflection, though, he felt that his boss should not be able to get away with forcing him to leave a job that he loved. His wife encouraged Brian to contact Acas, who suggested that Brian see a solicitor. Brian attended a free initial appointment with a solicitor who told him to submit a grievance letter to his employer and that further free legal information could be obtained from an employment solicitor at the CAB.

Brian had a gateway interview and then had to wait to become eligible for legal aid, following his loss of employment. An appointment was then made with the CAB employment solicitor who carried out a final check of his legal aid eligibility. Brian was deemed eligible and the solicitor began to act on his behalf. She submitted an ET1 form and helped Brian to prepare for his ET hearing, although she did not represent him.

Brian was extremely nervous at the hearing. He did not know which documents to hand over to the clerk or how to arrange for the judge to read out his witness statement (as he was dyslexic). Brian did not always understand the questions asked by the judge, nor was he able to provide a detailed account of the verbal abuse he experienced. The employer also represented himself. He was also not always able to follow the protocols required of the tribunal and took an aggressive approach throughout.

Brian won his case. He had to attend a remedy hearing. The CAB solicitor helped to prepare him for this. In this hearing, the accounts Brian provided for a new business that he had set up were questioned by the employer. The judge awarded Brian just over half of the amount claimed in his schedule of loss, being persuaded by some of the arguments by the employer challenging Brian's business accounts. To date, he is yet to receive these monies.

Len – unpaid sick pay

Len is a 73 year old man who has worked as a driver in a car-sale and garage company for 13 years. Len had an accident at work. He produced a doctor's note certifying that he was not able to work but did not receive any sick pay. He contacted his company's human resources team and was informed that he was a casual worker and not entitled to receive sick pay. Two years prior, Len's place of work had been taken over by a large company. At that point Len was required to sign a new employment contract. This specified that he was entitled to a generous sick pay package. Len contacted a different colleague in human resources and obtained a copy of this contract. However, despite having a contract showing his entitlement to sick pay, his manager continued to insist that he was a casual worker.

Len's daughter suggested he talk with a neighbour who volunteered at the CAB. The neighbour arranged for Len to have an appointment with a CAB employment advisor. The employment advisor met with Len and clarified the employer's obligations to Len and began the process of implementing a grievance procedure to obtain outstanding sick pay. Len felt immense relief at receiving this practical support.

After an unsuccessful grievance meeting and further unanswered correspondence sent by the CAB to the employer on Len's behalf, the CAB employment advisor lodged a claim with the Employment Tribunal. Len considered that he would not have been able to take these steps on his own. Immediately on receiving notice from the Employment Tribunal Service that a claim had been lodged, a senior manager of the employer got in touch with Len to have a meeting about his sick pay. This resulted in Len receiving settlement of all outstanding monies and an offer of the reinstatement of his job.

Notes on text

¹ <http://www.nomisweb.co.uk>, accessed 24 September 2013

² http://www.southwark.gov.uk/downloads/download/2513/southwark_key_housing_data_2011-12, accessed 3.10.13

³ Local Authority website

⁴ http://www.apho.org.uk/default.aspx?QN=HP_METADATA&AreaID=50291, accessed 3.10.13

⁵ NOMIS Local authority profile,

<http://www.nomisweb.co.uk/reports/lmp/la/1946157435/report.aspx?town=west%20dunbartonshire>, accessed 25.9.13.

⁶ Local Authority report

⁷ Local Authority report

⁸ Local Authority report

⁹ <http://www.nomisweb.co.uk>, accessed 25.9.13

¹⁰ <http://www.nomisweb.co.uk>, accessed 25.9.13

¹¹ <http://www.nomisweb.co.uk>, accessed 25.9.13

¹² <http://www.nomisweb.co.uk>, accessed 25.9.13

¹³ <http://www.nomisweb.co.uk>, accessed 25 September 2013.

¹⁴ <http://www.nomisweb.co.uk>, accessed 25 September 2013.

¹⁵ NHS Health and Wellbeing Profile, 2010.

¹⁶ <http://www.nomisweb.co.uk>, accessed 25 September 2013.

¹⁷ <http://www.nomisweb.co.uk>, accessed 26 September 2013

¹⁸ Local Authority report

¹⁹ Local Authority report

²⁰ Local Authority report

²¹ <http://www.nomisweb.co.uk>, accessed 26 September 2013.

²² <http://www.nomisweb.co.uk>, accessed 26 September 2013.

²³ <http://www.nomisweb.co.uk>, accessed 26 September 2013

²⁴ Local Authority website

²⁵ Local Authority website

²⁶ Local Authority website

²⁷ Local Authority website

²⁸ Local Authority website

²⁹ Local Authority website

³⁰ <http://www.nomisweb.co.uk>

³¹ <http://www.nomisweb.co.uk>

³² <http://www.nomisweb.co.uk>

³³ <http://www.nomisweb.co.uk>

³⁴ Local Authority website

³⁵ Local Authority website

³⁶ McWilliams, C. 'Including the Community in Local Regeneration? The Case of [location name] Social Inclusion Partnership' *Local Economy*, Aug 2004, 19(3).

³⁷ <http://www.ons.gov.uk>, accessed 7.10.13