

## **ASK THE ADVISER**

10) Employment -The latest in a series of articles by Iain Gregory of Caithness CAB

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Last week Jill, the CAB Area Manager, fixed me with a penetrating look and announced that she had had an idea. While considering this potentially alarming development I adopted a suitably grave expression and eyed her warily. This is because long experience has taught me that, whenever she has such a flash of inspiration, it frequently involves me being obliged to do something mentally taxing, physically demanding or on occasion, downright dangerous (think ice bucket challenge on a glacier). I was very relieved therefore when she said that she had decided we should take a break and go for a coffee and that she would pay for it. Afterwards I did try to sneak up to the till but, as always, this attempt was detected and, following our usual disagreement, Jill did indeed pay, pointing out that just for once I was going to do as I was told.

At Caithness CAB we operate a very enlightened and totally compliant employment policy and both Jill and I set out to make our office a happy and welcoming place for everyone but, sad to say, this is very far from the case in many workplaces and the level of complaints which we receive concerning employment issues is surprisingly high - so high in fact that we have a staff member whose task is to deal solely with such cases. (It should also be said that we also get quite a number of inquiries from employers as well and we are equally happy to help them in the same way).

This is a complex area and it is not possible to cover more than just the basics in one article so, if you are having problems, get in touch with us and we will always help. That said, the whole idea of having employment law is to make sure that both employees and employers have protection and a set of rules and guidelines designed to ensure that rights and responsibilities are clearly defined, the workplace is a safe environment and that staff are properly paid, correctly treated and given adequate days off and holidays. By the same token employers are entitled to expect certain standards from their staff and they too have rights.

So let's start with contracts. Do you have a contract of employment? Well, in a word, yes you do even, as is very often the case, there is nothing in writing. There is always a contract between an employer and an employee. You may not have anything in writing, but a contract will still exist simply because your agreement to work for your employer and your employer's agreement to pay you for your work forms a contract - your employer should give you a written

statement within two months of starting work with certain terms and conditions therein but, unfortunately, this often does not happen. A contract gives both you and your employer particular rights and conditions - the most obvious being that you have a right to be paid for the work which you do and your employer has a right to give you reasonable instructions and for you to actually do the work for which you are paid. These rights and obligations are known as "Contractual Terms" and are in addition to the rights which you have under law - for example an entitlement to be paid at least the National Minimum Wage (NMW) and the right to paid holidays.

The NMW is the minimum you must be paid and it ranges from £3.30 per hour for an apprentice aged 16-18 (or a first year apprentice aged 19 or over) to £3.87 at age 16-17, £5.30 at 18-20, £6.70 at 21-24 and £7.20 at age 25 or over. The "Living Wage" is slightly different and this is currently £7.20 per hour (the same as the maximum NMW). Different rules apply if you work in agriculture, but we have access to all the legislation and expertise here as well. It can all get a bit complicated so if you want to check you are being paid properly go to [GOV.UK](https://www.gov.uk), call the ACAS helpline on 0300 123 1100 or simply contact CAB on our usual numbers or just type in "Caithnesscab" and follow the links to our new website from where you can easily get in touch.

Holidays are a frequent cause of friction and you will often be told that you are not entitled to a holiday or "the rules do not apply to you". Well they do. The law says that it does not matter if you are full time, part time, agency or casual - you still must have holidays. The basic entitlement is 5.6 weeks paid holiday per year, which is worked out pro rata if you work less than 5 days per week - so if you work say two days weekly then you are entitled to 11.2 days per year. [If you are paid hourly then the calculations are very similar and there is an excellent calculator on GOV.UK](#) .It can get a bit tricky if you start work, or leave work, part-way through a year and some employers do seem to get a little confused about this - fear not we will soon advise you - and if you are an employer why not contact us and we can assist you no matter how complex the case. There are exceptions to the rules about holidays - for example the Armed Forces, [the Police](#) and the civil protection services, [such as our dedicated Firefighters and Coastguards](#) - [who](#) have different rules for obvious reasons, but this will be covered in Contractual agreements. Again different legislation applies to Farmworkers.

So what happens when a major problem arises at work? When conflicts arise the best thing to do is always to take a step back and think things through - often things will be said and done by both an employee and an employer in the heat of the moment and it is very easy for matters to quickly escalate out of all proportion to the circumstances. We always advise both parties to try and reach a mutually acceptable solution if at all possible. ACAS (Arbitration, Conciliation and Advisory Service) will give [excellent](#) advice and guidance and, if you are (hopefully) in a union they too can give counsel and Caithness CAB always stand ready to assist. Resignation, dismissal and disciplinary matters are all covered and there are always rules and guidelines. Again, this

can get very complex and the best advice is to always seek advice - right away. [Here at Caithness CAB](#) we will steer you through the choppy waters and will make sure that you are helped and protected.

Finally, and this is one of my late mothers particular interests [as a dedicated feminist](#), you have many rights if you are a woman. Do not let anyone tell you anything else. Should you become pregnant or suffer from a pregnancy-related illness then your employer must NOT discriminate against you. The "protected period" commences from when you become pregnant and, if you are entitled to maternity leave it ends when your maternity leave ends or when you return to work, if earlier. If you are not entitled to Maternity leave, then the "protected period" ends two weeks after your child is born. For exact advice on Statutory Maternity Pay, Contractual Maternity Pay or Maternity Allowance, please contact us. [And don't forget – working with our valued partners in the NHS your midwife will be able to refer you to us as well if you wish.](#) We will sort everything out for you and make sure you get all the other benefits to which you, as a woman and a mother, are entitled. And finally, there have been one or two cases nationally relating to your rights if you wish to breastfeed. Your employer does not have to allow you time off to breastfeed when you return to work, but they should try to accommodate you - if they don't then get in touch - we will guide you [and will look into all the aspects of the case, including the possibility of sex discrimination.](#)

So there we have it - a very complicated area of law, but we can break it all down and help you whether you are an employer or an employee. And on the subject of work, it is Saturday morning and my wife, Liz, appears to be looking at the lawn, which might well need a cut, her car, which might well need a wash, and various items of domestic equipment which appear to be in need of attention. Whilst I do not actually have a contract covering these duties I rather think that it would be best to get on with it"

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