



Plan for presentation:

- A brief overview of the CAB and what we do,
- The CAB's research work and where we get our data from,
- Our insights about barriers to participation in resolving employment relationship problems.

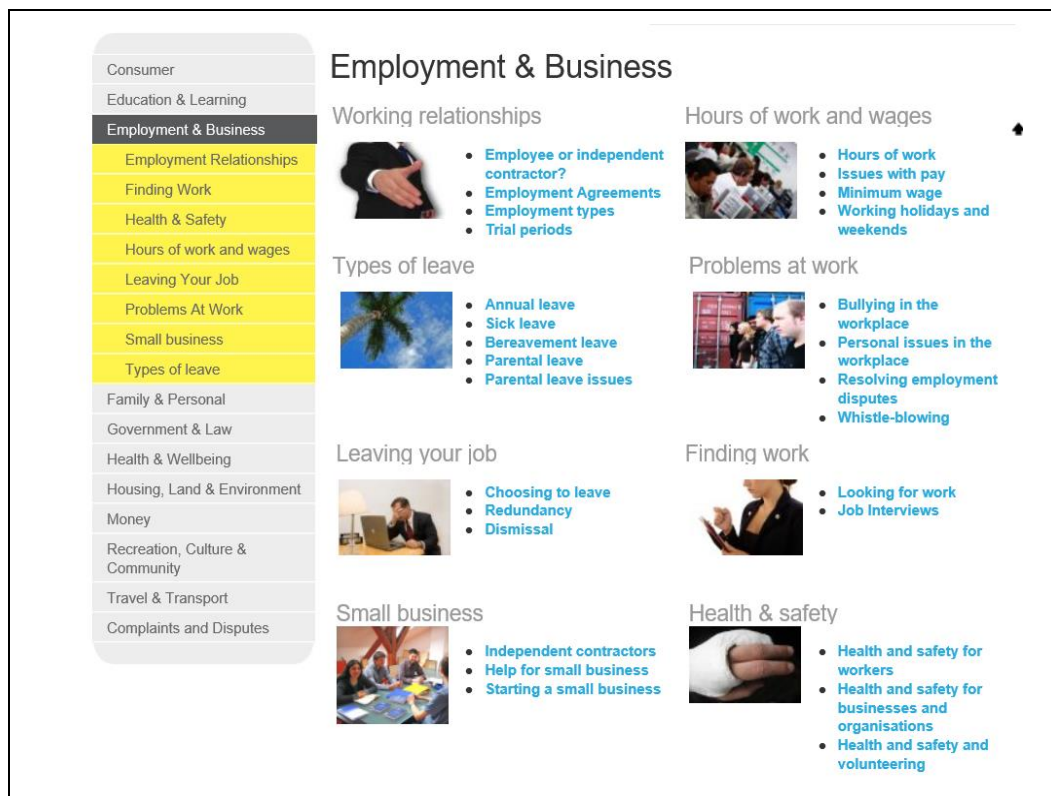


What does the CAB do?

- We provide free, confidential, independent information, advice and support.
- We help people know what their rights are and to access the services they need.
- Universal service available from 83 locations
- We work for positive social change within communities and wider society.



- We are an independent community organisation
- Accessible via phone, email, online chat or visiting one of more than 80 locations - free phone: **0800 367 222** (no charge from cell phones)
- Provided by more than 2,300 trained volunteers
- Universal service – so this means that we respond to enquiries from employees and from employers
- We work to empower people to resolve their problems, supporting them to do this to the extent each person needs.
- We use the insights from our clients' experiences to show how policies and laws, or the implementation of these, are having a negative impact on people and work for positive social change.



Accessibility and empowerment are two key principles in the CAB.
Our website is an important means of meeting both these principles.

It provides a knowledge base of over 2,500 questions and answers on more than 300 different subjects, as well as a nationwide community directory that contains over 35,000 entries from local services.

The information on our website is based on what people ask the CAB about.
This slide is a snapshot of the employment and business information we provide.

Last year, people used our website to find out about their rights and access services over 1, 910,000 times.

Employment and Business section was the 5th most viewed section during 2017/2018 (311,461 views)

Hours of work and wages – 61,289 views

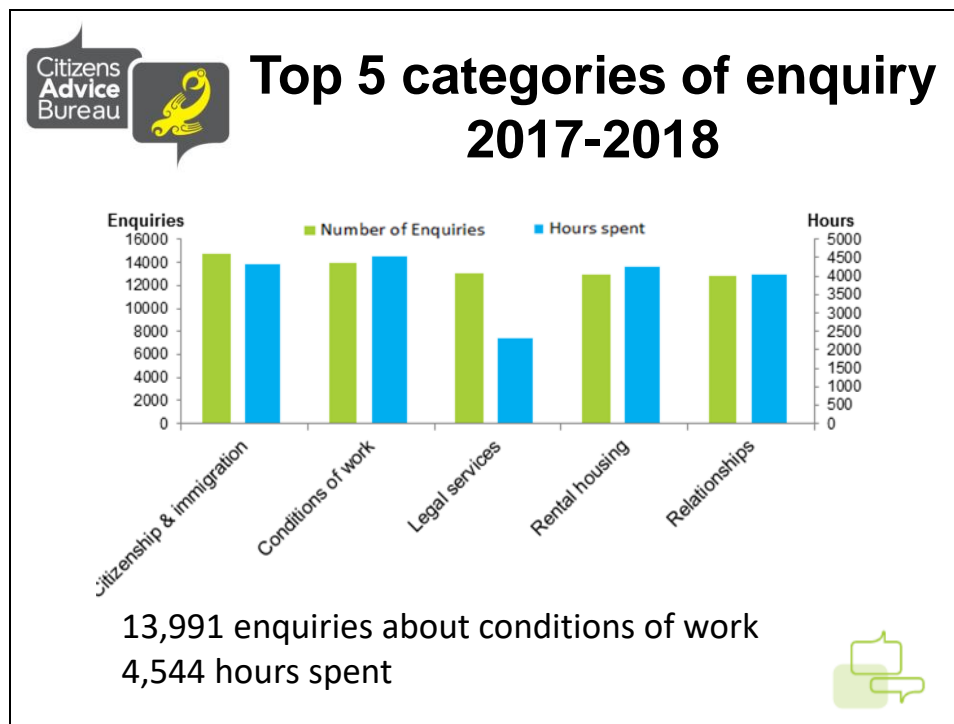
Employment Agreements – 50,491 views

Leave – 47,893 views

Leaving your job – 44,855 views

Small Business – 40,293 views

Problems at Work – 39,382 views



When a client comes into, phones or emails a CAB, our first step is to listen to their enquiry, questioning them to make sure we understand the issues for them, what action they have taken so far, and then to reflect back to them to make sure we have understood their situation correctly.

We then research our database (which includes the information on our website) to find the information needed to advise the client what their rights are and what options are available for their next steps. This process may also require further questioning and clarification with the client.

We will then talk to the client about the options available to them. If a client needs our help to take the next step, we will support them to do this eg, to write a letter, complete a form, sign-up to RealMe, sort through their documents or order their thoughts.

When the client interview is finished, our volunteers write up the enquiry in our national information system. Part of this process is assigning a category to the client's enquiry. Note that category is what the client asked about, not the options we gave or our sources of information.

It is these records of client enquiries, now over 4 million of them, which provide the raw material, the evidence base, for our Spotlight reports, our submissions and other social policy work.

In 2017/2018 we helped people over 508,000 times with issues that affected their daily lives. Of these, about 194,000 enquiries required an in-depth interview as described above.

This slide shows the top 5 categories of enquiry for in-depth interviews during 2017/2018. Conditions of work is the second most common category of enquiry.

During 2016 we noticed there had been a 37% increase in enquiries about conditions of work over the 5 years to 30 June 2017.

It was this trend which resulted in us prioritising capacity to research these enquiries. This research resulted in publication of our *Spotlight on CAB clients without a written employment agreement* last year. This report is available on our website <http://www.cab.org.nz/submissions/Pages/home.aspx>



Conditions of work categories

- Employment contracts and conditions
- Workplace bullying
- Dismissal
- Redundancy
- Employment disputes
- Occupational safety and health
- Trade unions / support and advocacy groups
- All leave including parental leave



This slide shows the 7 sub-categories within 'Conditions of work'.

'Employment contracts and conditions' is the most commonly used category (48%)

'Employment disputes' second (24%)

The remaining categories all sit between 1% and 5%



Barriers to participation

- Dependence for income or immigration visa
- Unsure what their rights actually are
- Don't know how to resolve the issues
- Do know how, but get no response
- Have the knowledge but not the energy, skill or money



Our client enquiries tell us a lot about what people are experiencing in the workplace, and sometimes we hear directly from clients the reasons why they choose not to seek redress for themselves, but for many, we can only make assumptions about their reasons.

We think there are a number of reasons why many employees hesitate to question or challenge their employer if the law is being disregarded or the employee's rights are being abused, but the overarching issue for employees is lack of power in the relationship.

The rest of this presentation includes examples of our clients' experiences; it is to them that we owe our insights. Confidentiality is a core principle for the CAB service so identifying details have been removed but the essence of the client's circumstances remains.

They (and often their families) are dependent on the income derived from their employment

Client is working full-time and has no employment agreement. The employer deposited the client's wages for the week into the account of another employee on the basis that the client owed this person money. The client understands this is unlawful but doesn't want to make a big issue of it because he doesn't want to lose his job. However, he does want his money back, and wants to make sure the employer doesn't make other deductions from his pay without his consent.

Client has no hours on the roster this week. What can he do? He needs work so he can pay his rent. He has no written employment agreement but he does get pay slips.

They (and often their families) are dependent on the income derived from their employment and they have seen other people lose their job for asking too many questions.

Client was employed full-time but never received an employment agreement or payslips. When he asked his employer about getting these things he was instantly fired.

Client has been in her job for 4 years. Despite asking for a written employment agreement, she does not have one. Client and employer recently agreed to her having three weeks' leave without pay. Last week she was told the business needs have changed. More workers were needed during the time she wants off and so her employment is terminated.

They (and sometimes their families) are dependent on the employment for their right to stay in New Zealand (Visa status)

Client has been in NZ for less than a year on a work visa. She is a qualified practitioner in her home country. The provisions of her employment agreement are that she will work on a trial basis until she has obtained NZ Qualifications. She was recently dismissed but her employer has offered that she may continue working as a volunteer without pay. The visas in her passport and those of her husband and child stipulate that their residence depends on her working for this employer.

Client has been in New Zealand for less than 6 months on a work visa. He has a number of issues including not being paid for all the hours he works, not being provided lawful breaks and not being given a copy of his employment agreement despite asking for this. He has tried talking to his employer about these issues. In response his employer is threatening to cancel his work visa.

They are unsure what their rights actually are. This often, but doesn't always, coincides with not having a written employment agreement. As you will know, while the lack of a written employment agreement doesn't mean an employee is completely without rights and remedies, the inherent vulnerability of an employee in this situation means they are at a huge disadvantage. It also makes it difficult to address problems when there is no written proof of what was discussed and agreed during recruitment.

Client wanted to know if her new boss can change her hours without her knowledge or agreement. She has young children so finds it difficult to change her hours at short notice.

Client had been given 2 days' notice that her employment was ending. No reason was given. She had been working for just under three months. Client was wondering if this was unfair. She had not been given an employment agreement, despite having asked for one.

Client worked as a caregiver. He had a day off work due to illness. When the client returned to work he was told his work had been terminated. When the client tried to talk to his employer about unpaid wages he was trespassed from the property. Client didn't have a written agreement and wanted to know what his rights were.

We found in our research on clients without a written employment agreement (1 Dec 16 to 31 May 17) that a disproportionate number were under the age of 30 years – 31% of the enquiries we analysed. This is substantially higher than the proportion of enquiries the CAB usually receives from this age group - 17% of CAB clients across all categories of enquiry.

They don't know how to resolve the issues. Many people use the CAB to find out what their rights are and what options they have for getting those rights upheld; it is why we exist. Employment enquiries are no different. It is not uncommon for people to come to us with a problem and simply want to know what to do next.

Our approach is to follow the steps of natural justice; talk to the person concerned first, in this case usually, but not always, an employer.

Our website includes tips for making an effective complaint and the steps to follow when there is a dispute. We also refer people to the templates on the Community Law website which are designed to help people communicate clearly and effectively about employment rights in various situations.

We will also help people clarify what the problem actually is, what they ideally want, and then help them to write a letter or work out what they actually want to say to the person they have the problem with.

They do know how to at least start to resolve the issues but cannot get a response. As some of the examples above show, sometimes an employee will try to problem solve with their employer but are not met with an appropriate response. So where to next?

Client left her employment a couple of weeks ago due to poor treatment by her employer (disrespectful, bullying) She is still owed her holiday pay and last few weeks wages. She has sought this from her employer several times but gets no pay and no reply. She wants to know what to do.

One of our principles is to provide people with options, not to make the decision for them as to what is the best thing to do or the best service to use. So we offer a range of options where that is possible, usually starting with those that are available free of charge.

Note: this information is also on our website - refer to slide 7, page 11, or

<http://www.cab.org.nz/vat/eb/paw/Pages/Wheretogethelp.aspx>

- For people who belong to a union, we suggest they talk to their union representative.
- We use the Employment New Zealand contact centre to get information about employment rights if we are not able to clarify those for the client (and we give this number to clients too). We also suggest Community Law Centres, if there is one in the client's area.
- We tell clients about MBIE's Employment mediation service. Unfortunately access to this is now only available online, with a RealMe login. Why? Why can't people phone to request this service? I'm not sure exactly when it changed, but sometime in the past year I think.

- We also tell people about the Employment Relations Authority and Employment Court as options if mediation doesn't succeed.
- If relevant, we tell people about the Labour Inspectorate including the Labour Standards Early Resolution Team, advising them that if they wish to report their employer to the Inspectorate, the only way to do so is through the contact centre phone number.
- Finally we suggest employment law specialists although that often depends on what employment law and private mediation services are available in the community where the person lives.

They do know how, but don't have the energy or ability to stick with the long haul that is often involved, or have other challenges, like lack of English competence, to follow through. It can take a lot of tenacity, self-conviction and time to follow through with a complaint about an employer.

Couple came in and initially wanted help to fill in the KiwiSaver form to request an early withdrawal due to hardship. Husband is getting bullied at work. He is seeing a counsellor and is unable to work efficiently due to the anxiety. They have no other source of income.

Many migrant clients have the additional challenge of having to interact in English, a language in which they may not be fully proficient. The CAB is able to provide some migrant clients with information and advice in their own language, either through our Language Connect service or by volunteers who are speakers of other languages.

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Complaints and Disputes

Resolving employment disputes

- [How do I sort out a dispute I have with my employer?](#)
- [My employer has asked me to attend a disciplinary meeting. What does this mean?](#)
- [Who can provide support to me if I have an employment dispute with my employer?](#)
- [How can the Ministry of Business, Innovation and Employment \(MBIE\) help with an employment relationship problem?](#)
- [What happens during mediation?](#)
- [What is the Employment Relations Authority?](#)
- [What happens at the Employment Court?](#)
- [When should I contact a labour inspector and how can they help?](#)

How do I sort out a dispute I have with my employer?

If you have a dispute with your employer, it's worth trying to resolve it between you through informal discussion. If this is not working, you and your employer should use the disputes resolution process that is stated in your [employment agreement](#).

Either party can seek [mediation](#) to help them come to an agreement. Most employment disputes are settled in the mediation phase.

If mediation is unsuccessful, you can apply to the [Employment Relations Authority](#) ERA who will investigate and make a decision.

If either party is unhappy with the ERA's decision, they can apply to the [Employment Court](#).

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My employer has asked me to attend a disciplinary meeting. What does this mean?

If someone has made an allegation of misconduct or poor performance against you, your employer may organise a disciplinary meeting. At the meeting the employer will explain what the allegation is and any evidence that there is to support it, and you will have the opportunity to respond to the allegation by giving your side of the story.

The employer must give you written notice of the meeting, and it should state:

- that it is a disciplinary meeting
- where and when the meeting is to take place
- what allegations have been made against you

Migrant Connect
Language Connect



Become a CAB Volunteer

Get advice live online.

Related Links

- [Employment Relations Authority](#)
- [Find a union \(NZ Council of Trade Unions\)](#)
- [Mediation \(MBIE\)](#)
- [Employment Court \(Ministry of Justice\)](#)
- [Labour inspectors \(MBIE\)](#)

This slide shows the layout of our website, focused on the information about resolving employment disputes.

<http://www.cab.org.nz/vat/eb/paw/Pages/Wheretotogethelp.aspx>

Note the blue questions at the top, all based on our client enquiries.

Conclusion

Our experience is that given the significant imbalance of power between employees and employers, there needs to be careful consideration about how to provide more support for helping ensure the rights of vulnerable employees; placing too much reliance on employees self-advocating for their rights will have limited success.

I recognise I have spoken a lot about employees, and need to acknowledge that we also receive enquiries from employers seeking information and advice on how to be a good employer, or what their rights are when an employee leaves with no notice for example, or causes significant damage to property in the course of undertaking their tasks.

I know the purpose of this symposium is to talk about barriers to participation in resolving employment relationship problems, but how about we consider addressing some of the root causes; employers who flout the law?

Employers have multiple points of contact with government agencies. Every employer interacts with Inland Revenue and ACC. Employers may also deal with agencies like WorkSafe

NZ, the Companies Office or the Charities Services, the Ministry of Social Development (MSD) and Immigration NZ.

We believe an integrated approach should be taken so that the various interactions employers have with government agencies are used more effectively to reinforce, and enforce, minimum employment rights, including the requirement to provide every employee with a written employment agreement. Actions taken across government could range from providing employers with prompts and education through to requiring the employers report on their compliance with minimum employment standards.

We have used our own publications, relevant reports to government agencies and our submissions to select committees to make recommendations for improving compliance with the law and addressing some of the issues people face in employment but we are not in a position to come up with detailed solutions. That is why we have welcomed the opportunity to be part of this collaborative approach and discussion today.

Note that you can read all our submissions to select committees and our own publications on our website <http://www.cab.org.nz/submissions/Pages/home.aspx>

Some of the options we have raised in other contexts for removing barriers and which have yet to be acted on include:

- Make it easier for employees (and third parties) to report a breach of employment rights, anonymously if they wish and with protection from any negative consequences of holding their employer to account. And make sure there is follow-up to the person making such a report, if they wish that.
- Target education about their employment rights to young people.
- Employees need access to free, independent, confidential information, advice and support to counteract the inherent power imbalance in the employment relationship. Ensure that information and advice services provided by both government and non-governmental organisations are adequately resourced and promoted.