Dear Colleague,

**Information for GMB Members - Potential Holiday Pay Claims**

A recent ruling in the Court of Justice of the European Union has ruled that UK law in relation to the calculation of holiday pay is not in line with European law. As paid holiday is a health and safety measure, workers should not be deterred from taking holiday because they will be paid less, than their normal pay.

For most workers the calculation of holiday is straightforward and they receive the same pay for each week of holiday as they do for the rest of the year. But the position is more difficult where pay varies because of factors such as overtime, shift pay, commission, and some allowances, but not expenses.

As a result some GMB members could have a claim against their employer for past underpayment of holiday pay.

**Who might have a claim?**

Anyone whose holiday pay is calculated on their basic pay only, excluding other amounts they regularly get paid when they are working.

Examples of other amounts would include:

-      Commission

-      Overtime (contractual or discretionary)

-      Shift payments (shift allowance, nightshift payments, and on-call allowance)

-      Unsociable hour’s payments.

One quick test is to compare a pay slip received while working normally with a pay slip while you are on holiday – if it is less, you may have a claim.

If you think you might have a claim you must contact your GMB region as soon as possible so we can investigate your claim and contact your employer and ask if your holiday pay is paid correctly. If GMB cannot get the issue resolved (both back pay and future holiday pay calculation), we may need to file a grievance, or sometimes take legal action to ensure your employer obeys the law and pays you correctly

**If you think you have a claim, it is particularly important that you get in touch with us IMMMEDIATELY if you have recently left your job OR your employer has recently changed the way they calculate your holiday pay.** In either of these situations, you may lose your rights to claim for missing back pay of holiday pay if you have not notified ACAS within twenty eight days or have not filed an employment tribunal claim within three months less one day, of the last incorrect payment.

I’ve attached a questionnaire which should be returned to Lola McEvoy at the following address:

GMB Hainault Office

2nd Floor

65 New North Road

Hainault, Ilford

IG6 2UE

If you have any questions, please contact us.

Yours sincerely,

LMcEvoy

Lola McEvoy

GMB Organising Officer