



Department
for Business
Innovation & Skills

**Employment Agency
Standards (EAS) Inspectorate**

Annual report 2012 to 2013

NOVEMBER 2013

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EAS Annual Report 2012 - 13

Introduction

1. This report outlines the performance and achievements of the Employment Agency Standards inspectorate (EAS) between April 2012 and March 2013. The inspectorate is part of the Department for Business, Innovation and Skills.
2. This report is structured around two key strategic outcomes:
 - (i) Ensuring effective enforcement and compliance of the law;
 - (ii) Delivering efficient customer service.

EAS's Responsibilities

3. The mission of the EAS is to work with agencies, employers and workers to ensure compliance with employment rights, particularly for vulnerable workers.
4. The main role of EAS is to ensure compliance with the Employment Agencies Act 1973 as amended (the Act), and the associated Conduct of Employment of Employment Agencies and Employment Businesses Regulations 2003 as amended (the Conduct Regulations), across Great Britain. The Department for Employment and Learning in Belfast is responsible for enforcing employment agency legislation in Northern Ireland.
5. EAS has powers to tackle employment agencies by seeking compliance with the employment agency legislation. Where necessary the inspectorate will issue warning letters to agencies and seek to ensure that corrective measures are put in place. In extreme cases, the inspectorate can consider prosecution in a Magistrates' Court (maximum £5,000 fine) or a Crown Court (unlimited fines). The Inspectorate can also consider prohibiting individuals from running an employment agency for up to 10 years.

Enforcement

6. Enforcement of the employment agency legislation is guided by a structured assessment of risk. Successes during 2012/2013 included:
 - Targeted regional inspections of employment businesses in Manchester the area.
 - A national targeted enforcement exercise in the catering and hospitality sector.

- A national targeted enforcement exercise in the healthcare and locums sector.

7. EAS completed 7 successful prosecutions and 2 prohibitions in this reporting year.

Successful prosecutions – relating to non payment to temporary or contract workers – regulation 12 of the Conduct Regulations - included

- At Liverpool Magistrates; Court on 31 April 2012, a defendant (an employment business) pleaded guilty to 4 charges of withholding wages to four temporary/contract workers. The workers were supplied as seafarers. Total costs and fines against the defendant was £3015.00;
- At Leicester Magistrates Court on 24 April 2012, a defendant pleaded guilty as a Director and on behalf of her company to 7 charges of withholding wages to seven temporary/contract workers. The workers were mostly students and supplied to work in the hospitality and catering sector. Total costs, fines and compensation were £2,030.00. The defendant was also banned as a Director for 12 months;
- At Guildford Crown Court on 13 August 2012, a defendant pleaded guilty as a Director and on behalf of his company to 2 charges of withholding wages to 2 temporary/contract workers. He was fined a total of £5,000.00 and ordered to pay compensation to 2 workers (£17,155.00 and £36,130.00 respectively). The defendant was also banned as a Director for a period of 12 months;
- At Reading Crown Court on 13 July 2012, a defendant pleaded guilty as a Director and on behalf of his company to 4 charges including withholding wages to a contract worker. He was fined a total of £3,250.00.

Successful prosecutions – relating to non payment to an actor – regulation 25 of the Conduct Regulations

- At Leicester Magistrates' Court on 21 December 2012, a defendant pleaded guilty to withholding money that they had received as an agent on behalf of an actor (work-seeker). The agent paid the money (£500.00) to the actor after proceedings had commenced. The Court issued fines and costs totalling £3,309.00

Successful prohibitions

- On 6 February 2013 at Newcastle upon Tyne Employment Tribunal, Ian Johnson and Ronald Clark were both prohibited for a period of 5 years (from 6 February) from running or being concerned with the running of an employment agency. These persons were

added to the list of prohibited persons that appears of the Gov.UK website. The link to this webpage is

www.gov.uk/government/uploads/system/uploads/attachment_data/file/153695/employment-agency-standards-inspectorate.pdf

8. During the period 2013-14, EAS successfully secured a further prosecution at Wrexham Magistrates' Court on 11 July 2013. The defendant pleaded guilty to breaching regulation 13 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003. The defendant was sentenced to pay compensation to 2 work-seekers totaling £4,080.00 and costs of £1329.00. There are a further 4 potential prosecution cases pending.

9. On 28 August 2013 at Birmingham Employment Tribunal, Steven Lee Bartlett, who operated a supply teacher employment business (Supplied Recruitment Limited) was prohibited from running or being concerned with the running of an employment business for the maximum term of 10 years. There are a further 2 prohibition applications pending.

10. Over the course of 2012/13, EAS recovered £169,183.56 for workers in relation to non payment of wages or money due to them; or where fees were charged to them; in contravention of the regulations.

11. In the first 6 months of 2013-14, a total of £59,693.00 has been recovered. Since April 2008, EAS Inspectors have recovered around £920,000.

Customer Service

12. During 2012/13 the inspectorate received 858 complaints and cleared 916 representing a small increase in the number of complaints received and cleared during 2011/12.

13. During this period the inspectorate carried out 229 targeted inspections based on risk. This figure includes the inspections that were carried out as part of the EAS targeted exercises and set out in the enforcement section of this report (see paragraph 6).

14. A total of 1,145 cases (complaints and targeted inspections) were handled by EAS during 2012/13, which represents a small fall when compared to the totals for 2011/12 (1191). EAS Inspectors identified 1,479 infringements and issued 471 warning letters.

EAS Staffing

15. At the start of the period of this Annual Report the EAS team in post was 16 (13 Inspectors, 2 Managers and the Head of EAS). The staff in post, as of March 2013, was 12, including 9 Inspectors. As of September 2013, there were 11 staff including 8 Inspectors.

Freedom of Information (FOI) Requests

16. The inspectorate received 10 Freedom of Information requests during the year and responded to 100% within the deadline. The most frequent requests were around specific sector data. There were also some requests for information about our investigations. We do not publish the detail of our investigations, or reveal information captured during an inspection, unless it leads to a public prosecution or prohibition.

Working with other enforcement bodies

17. As part of our focus on delivering better customer service and increasing our impact, EAS has continued to work more closely with the other workplace enforcement bodies. The single Pay and Work Rights helpline which serves five different enforcement bodies has provided a strong stimulus to collaboration. The result has been closer liaison on the handling of multi-issue complaints which raise matters of interest for more than one enforcement body. The most common multi-issue cases were national minimum wage allegations where an employment agency is involved.

18. The inspectorate worked with the National Minimum Wage inspectors of HM Revenue & Customs (HMRC) to handle cases, and explore other opportunities for closer collaboration.

19. In May 2013, EAS Inspectors and HM Revenue and Customs (HMRC) carried out a joint investigation visiting 34 employment agencies in the Corby area. This was a three day targeted street sweep as a multi-agency taskforce aimed at tackling migrant labour abuse. HMRC uncovered that from the agencies targeted there may be 3,000 workers underpaid by £100,000. In addition 73 infringements of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 were identified.

Forward Look

20. The UK has a labour market that is flexible, efficient and fair but some laws are outdated. In 2012, the employment law Red Tape Challenge identified the Employment Agencies Act 1973 and Conduct of Employment Agencies and Employment Businesses Regulations 2003 as candidates for reform.

21. On the 17 January the Government published a consultation on reforming the regulatory framework for employment agencies and employment businesses. The consultation sought views on the Government's proposal to replace the current legislation with a new, simpler, regulatory framework. The consultation also sought views on how recruitment sector legislation should be enforced.

22. The Government considered responses to the consultation and intends to proceed with replacing the current legislation. The new regulatory framework would reduce some of the burden on business and would, for the most part, focus on the areas where work-seekers are most at risk of exploitation. The Government will carry out a further short consultation on draft legislation after it has been prepared.

23. The Government response was published in July 2013 and can be found on Gov.UK - www.gov.uk/government/uploads/system/uploads/attachment_data/file/212084/13-1021-reforming-the-regulatory-framework-for-the-recruitment-sector-government-response.pdf

24. The Government has also announced a more targeted enforcement strategy for the recruitment sector, focusing on protecting the most vulnerable, low paid workers. From 4 November 2013, resources from the Employment Agency Standards Inspectorate (EAS) which is currently situated within BIS will move to HM Revenue and Customs' National Minimum Wage (NMW) team. Please see the attached link for more information:

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131104/wmstext/131104m0001.htm>

Annex A: Case Statistics 2012-2013

<u>Investigations</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Complaints received	1,103	1,244	1,567	1,714	958	643	828
Complaint cases cleared	1,302	1,273	1,450	1,932	1,101	784	916
Cases still in progress	291	299	547	371	202	225	147
Total infringements found	1,892	1,128	2,393	2,236	2,065	2,146	1479
Targeted inspections in high risk areas	330	221	311	164	243	407	229
Warning letters issued	558	518	692	647	917	602	471

Annex B - Complaint and inspections carried out (by agency type) – 1 April 2012 to 31 March 2013

Types of agencies	Number of cases	% of total cases
Healthcare (carers/nurses/doctors)	149	13%
Industrial/Construction	189	17%
Drivers	62	5%
Construction	82	7%
Secretarial/Commercial/Admin (office workers)	134	12%
Entertainment(actors/extras)	96	8%
Models (promotional workers)	87	8%
Nannies/Au Pairs/Childcare (domestic workers)	56	5%
Hotel/Catering/Hospitality	66	6%
IT/Online	59	5%
Professional/Executive (engineering and technical)	80	7%
Teachers/Tutors	85	7%
Total	1145	100%

Analysis of infringements found (by agency type) 1 April 2012 - 31 March 2013

Types of agencies	Number of infringements	% of total cases
Healthcare (carers/nurses/doctors)	167	11%
Industrial/Construction/Drivers	322	22%
Drivers	101	7%
Construction	130	9%
Secretarial/Commercial/Admin (office work)	117	8%
Entertainment (actors/extras)	107	7%
Models (promotional workers)	151	10%
Nannies/Au Pairs/Childcare (domestic workers)	61	4%
Hotel/Catering/Hospitality	86	6%
IT/Online	38	3%
Professional/Executive (engineering and technical)	108	7%
Teachers/Tutors	91	6%
Total:	1479	100%

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