



Department for
Business, Energy
& Industrial Strategy

Employment Agency Standards (EAS) Inspectorate

Annual Report 2019 - 2020

July 2021



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Foreword

The end of this reporting cycle for the Employment Agency Standards Inspectorate (EAS) saw unprecedented disruption to everyday life with the start of the Coronavirus pandemic (COVID-19). This was felt across the economy, including in the recruitment sector. It is much to the credit of all those involved in the sector that it was able to demonstrate the true strength of the UK's flexible labour market, with the ability to adapt and support the wider economy.

This report covers a short period of time during the pandemic, but it does not reflect fully the work that EAS undertook with stakeholders, government departments and other bodies such as Crown Commercial Services, in response to Covid-19. This work will be reflected more in next year's report.

However, I am keen to reflect upon some key achievements during the last reporting year. We have:

- Embedded our strategic vision of APE – Advise, Protect, Enforce.
- In doing so, EAS have restructured and remodelled activity to reflect the regulatory needs in the sector.
- Continued to deliver strong outcomes in supporting the sector and those working within it, for example through prosecutions, LMEU/O, recovered pay and visits.

As the regulator for the recruitment sector, we have continued to support all those operating in the sector throughout the year. I cannot stress enough, however, that while supporting the sector, we continue to robustly deal with any complaints or issues of non-compliance that arise. The sector's support in dealing with these matters in an efficient and co-operative manner is greatly appreciated, now and in the future.

Ben Bruten

Head of EAS

Executive Summary

- The Employment Agency Standards Inspectorate (EAS) is located within the Department for Business, Energy and Industrial Strategy (BEIS). EAS is the government regulator for the private recruitment sector, regulating all employment agencies and employment businesses that provide work-finding services in Great Britain.
- The reporting year has seen a number of changes, with an increase in staffing and the creation of the EAS Board that provides independent oversight of EAS' activities, as well strategic advice and guidance.
- EAS' last Annual Report highlighted a change in approach with EAS focusing on three core principles: Advise, Protect and Enforce. This report is structured to reflect these principles.

Advise

- During this reporting year EAS has built on its existing relationships with a wide range of trade bodies, sector representatives and charities who have an interest in EAS' ongoing work.
- We have also used the time to work closely with colleagues in other government departments, such as the Department for Health and Social Care, the Department for Education, and the Crown Commercial Service, to ensure that the recruitment sector's voice has been heard.

Protect

- EAS has increased the number of frontline operational staff in response to the recommendation made in the Director of Labour Market Enforcements (DLME) strategy 2018/19. As a result, the inspectorate has been restructured to make a better distinction between the various strands of work.
- The volume of complaints received by EAS in this financial year were comparable to 2018/19 and the team continues to deliver a wide range of both pro-active and re-active inspections.
- EAS has worked with BEIS policy colleagues to deliver the commitments made in the government's Good Work Plan¹. From 6th April 2020, all employment businesses are:
 - required to give work-seekers a 'Key Information Document' when they first engage with a work-seeker; and
 - no longer able to offer contracts that include a clause allowing a work-seeker to elect to receive a lower rate of pay compared to an equivalent permanent employee

¹ <https://www.gov.uk/government/publications/good-work-plan>

in exchange for a payment when they are between assignments. These were often referred to as 'Pay Between Assignment' or 'Swedish Derogation' contracts.

- Work continues with a view to extending the remit of EAS to cover 'Umbrella' companies.

Enforce

- EAS has continued to take a strong line with those employment agencies or employment businesses that are not compliant with the legislation. During this year, EAS has obtained two Labour Market Enforcement Orders as part of the outcomes of two successful prosecutions.
- Visit EAS's website for more information about the organisation and its work: <https://www.gov.uk/government/organisations/employment-agency-standards-inspectorate>.

Agency Workers and Enforcement Landscape

EAS Role and Responsibilities

The private recruitment sector has continued to play a crucial role in ensuring that the labour market works effectively, helping work-seekers to find temporary or permanent work that suits their needs.

The legislative basis for EAS and its work is set out in the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (both as amended) which applies across Great Britain. The Department for the Economy in Belfast is responsible for enforcing employment agency legislation in Northern Ireland.

EAS' aim is to work with private recruitment agencies, hirers and work-seekers to ensure compliance with the regulatory framework. It also seeks to ensure that anyone who uses the services of such an agency to find work is afforded statutory protection of their employment rights. The budget for 2019/20 was increased from £725,000 to £1.125m, an increase of 55%, to allow for the recruitment of more frontline inspectors as recommended by the DLME, and to prepare for the introduction of the 'Key Information Document', which came into force on 6th April 2020.

As a result of the growth of EAS a restructuring of the inspectorate has begun and this will continue to evolve as legislation changes and new threats and risks emerge. EAS now has an operational presence in London, Birmingham and Cardiff, the latter two offices coming on stream during 2019/20. The number of frontline inspectors has increased from 10 in 2018/19 to 18.8 full time equivalents in 2019/20.

Government Reforms Relating to Temporary Workers²

In December 2018, the government published the Good Work Plan, in response to Matthew Taylor's review of Modern Working Practices. Some of the commitments made impact on the recruitment sector and the following is an update on the current status of agency workers.

In relation to the private recruitment sector, the "Good Work Plan" set out three reforms. On 6th April 2020 the government introduced the 'Key Information Document' (KID) and abolished the 'Pay Between Assignments' contractual element in the Agency Workers Regulations 2010.

- 'Key Information Documents' set out information in relation to the way in which an employment business may engage with a work-seeker. The aim of the KID is to ensure that work-seekers are aware of specific information around their contractual relationship with the employment business or other party (such as an umbrella company). More information on the change can be found on gov.uk³.
- The abolition of the 'Pay Between Assignments' element of the Agency Worker Regulations 2010 (also known as the Swedish Derogation) removes the contractual arrangement where a work-seeker could agree not to receive comparable pay in return for a guaranteed payment when no work was available.
- A further recommendation on EAS becoming the regulator for umbrella companies has also been accepted and work continues to deliver this commitment.

² [Taylor Review](#)

³ <https://www.gov.uk/government/publications/providing-a-key-information-document-for-agency-workers-guidance-for-employment-businesses>

The Director of Labour Market Enforcement (DLME) Strategy 2019-20

The Director of Labour Market Enforcement (DLME) made several recommendations in his 2018-19 and 2019-20 strategies that impact on EAS:

2018/19 Strategy

- **EAS should raise its profile and have its own page on Gov.UK:** EAS' webpage - <https://www.gov.uk/government/organisations/employment-agency-standards-inspectorate> - went live in January 2019. As noted later in this report, EAS has restructured and now has a dedicated resource responsible for promoting EAS work and leading on wider stakeholder engagement. EAS has also been working collaboratively with colleagues in the Gangmaster and Labour Abuse Authority (GLAA) and HMRC's National Minimum Wage Team (NMW) on new material covering all 3 bodies⁴.
- **Resourcing of EAS should be increased:** EAS has increased the number of frontline inspectors to respond to the increase in complaints received. Resources are kept under constant review to ensure that EAS has the capability to meet any future demands or legislative changes.
- **Civil penalties:** This recommendation was accepted, and the government consulted on introduction as part of the wider consultation on establishing a single enforcement body.

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2019/20 Strategy

- **Improved information sharing between EAS and GLAA:** Work continues to improve the sharing of information between all the enforcement bodies to help improve compliance and enforcement. As noted above, EAS' ever-growing relationship with the GLAA and HMRC's NMW Team helps to promote each other's work and deliver information in co-ordinated fashion.
- **GLAA and EAS should improve external messaging:** EAS now has a dedicated resource devoted to engagement and stakeholder management and is working closely with GLAA and HMRC NMW on this issue. This has resulted in EAS having a visible presence on the GLAA's website, participation in a developing 'tri-agency' stakeholder bulletin and joint webinars/podcasts.

⁴ <https://www.gla.gov.uk/whats-new/glaa-partnership-bulletins/november-2020/>

- **EAS should review resourcing to meet future challenges:** As noted above, resourcing has already increased and will be kept under constant review.

EAS' Strategic Approach

As set out in the 2018/19 EAS Annual Report, EAS has two key strategic drivers:

- ensuring effective compliance with the legislation and, where necessary, taking enforcement action against employment agencies and businesses; and
- providing efficient customer service.

That report also introduced three broader aims that support EAS' activities to provide support not only to work-seekers but also to businesses. EAS' core strategic operational functions are to:

- **Advise** both work-seekers and businesses about current legislation to support and protect both parties to the employment relationship.
- **Protect** vulnerable work-seekers where their employment rights may be denied.
- **Enforce** legislation, where serious and/or repeated non-compliance is identified.

Advise

EAS provides a range of information, using different formats, to support both businesses working in the recruitment sector and work-seekers. This has involved developing our own material, as well as helping other organisations such as the Arbitration, Conciliation and Advisory Service (Acas) develop or improve their information.

Information specifically for employment businesses has been developed to help them understand the legislation and will be launched during 2020/21. Similar guidance on what work-seekers should expect as a statutory minimum when working through an employment business is also to be launched.

Where employment businesses are looking at how to change or develop processes, they are encouraged to contact EAS before they commit, so that any potential issues with the legislation can be identified. EAS inspectors call on their range of experience from working in the sector and will have seen a wide range of systems and processes that can help inform the discussions.

EAS aims to ensure those seeking work through the recruitment sector know their rights, understand their contracts, know who is paying them and the pay they should receive. Most importantly, EAS aims to ensure all workers know how to get support, should they feel they have been unfairly treated.

EAS remains committed to ensuring that temporary workers receive the relevant protections afforded by the legislation. Unfortunately for some, they do not receive the service that they are expecting and will make a complaint to EAS. There are several ways in which a complaint can be made but it is strongly recommended that, if a work-seeker needs advice and guidance, they contact Acas (0300 1231100 or www.acas.org.uk). If the caller wishes to speak with an Inspector, Acas can transfer the call for them to continue the conversation and then take details of any ensuing complaint. Other ways in which a complaint can be made to EAS are:

- Email: eas@beis.gov.uk
- Online, using the complaint form which can be found here: <https://www.gov.uk/government/publications/pay-and-work-rights-complaints>
- Phone: 020 7215 5000 (BEIS Enquiry Unit who will transfer the call)
- Post: EAS, spur 1, 1st Floor, 1 Victoria Street, London, SW1H 0ET

An inspector will be assigned to undertake an investigation and will engage with the work-seeker to understand more about the issues. The issues that have been raised may not be a breach of EAS' legislation and this will be explained. Where appropriate they will be signposted to other partners who may be able to assist them.

EAS' website provides guidance and support for businesses, which we will continue to review and develop. It is planned that this will become the single point where all relevant information will be hosted, for both businesses and work-seekers, and we will continue to work in collaboration with partners to ensure that their content is up to date.

EAS have undertaken presentations to representative bodies, businesses and third parties to support those in the industry or who have an interest in the recruitment sector to understand the legislation and compliance with it. These have been well received and EAS is happy to consider further presentations – contact should be made through the EAS mailbox: eas@beis.gov.uk. It should be noted that EAS does not charge for attending events and is keen to support the recruitment sector wherever possible.

Two further roadshows have been run during this reporting year, in Cardiff and London, and both were well attended. The aim of the roadshows is, primarily, to give employment businesses an opportunity to hear more about EAS' strategic direction, purpose and function, as well as look to the future. They cover the legislation in some detail, what happens during an inspection and conclude with a short recap of the legislation by working through several scenarios based on real cases that have been handled by EAS.

EAS continues to engage in regular strategic stakeholder conversations, holding quarterly meetings with the industry's leading recruitment companies and relevant trade bodies. The very end of the reporting year saw an increase in this activity, mainly with other parts of government, to ensure that the recruitment sector's views were considered. The following is a summary of the activity undertaken:

Undertaking the two roadshows outlined above.

Facilitating regular training with Acas to ensure that helpline advisors received relevant refresher training regarding EAS and its role:

- Training with the other enforcement bodies to ensure they are aware of EAS legislation, role and responsibilities.
- Regular meetings with some of the larger employment businesses operating in Great Britain.
- Regular meetings with the main trade bodies representing the recruitment sector
- Working with the Welsh government and the National Procurement Service on their education framework and presenting at the NPS' Framework launch event.
- Working with the Crown Commercial Services on both the Education and Healthcare Frameworks.
- Working with the Departments for Health and Social Care and Education to better understand the work that they are doing in relation to temporary workers in both sectors.

Protect

The recruitment sector in Great Britain continued to develop and evolve as demand changed for the supply of temporary workers, particularly from March 2020 onwards. The economy relies on temporary workers to provide a lot of the flexibility element of the labour market. Temporary roles will be used by businesses at various times during the year, so there will be cyclical peaks and troughs, eg online sales such as 'Black Friday' and the lead up to Christmas see a bigger demand across distribution and warehousing.

It is often a misconception that EAS is only here to protect the rights of work-seekers, and whilst this is a big part of the work for the team, EAS is also here to protect employment agencies and businesses by ensuring that they and their competitors are compliant with the legislation. EAS is also here to protect hirers so that they can be sure that the work-seekers supplied to them are suitable for the roles needed, and that if they want to take work-seekers on permanently, they are able to do so within the scope of the legislation.

A significant amount of EAS' work relates to sectors that deal with working with the vulnerable, such as in the healthcare and education sectors, not only with employment businesses but across government as well.

Protecting all three parties relies on ensuring that EAS' legislation is understood and complied with. EAS undertakes a lot of proactive work by dealing with specific complaints or identifying matters that may require a specific intervention with an employment business. EAS also undertakes targeted inspections (see later in this report for more information), with an emphasis on supply into sectors dealing with the vulnerable, such as education and healthcare. This in turn has led to the creation of links into and closer working with both the

Department of Health and Social Care and the Department for Education, and a strengthening of ties with the Welsh government and National Procurement Service.

As EAS resourcing has increased, it has created operational capacity to expand the number of targeted operations undertaken. Each operation is targeted at a specific sector or location and will often involve visits to many employment businesses in a sector or location.

Targeted operations are undertaken based on information, intelligence, and risk profiling. The increase in targeted operations has allowed EAS to identify that a significant number of employment businesses are not compliant with EAS' legislation.

EAS has continued to support and enhance its risk profiling and intelligence-led work by refining its risk indicators, and by working in close partnership with key stakeholders to identify non-compliant behaviours. In this reporting year these partners include:

- HMRC's National Minimum Wage Team (NMW)
- Gangmaster and Labour Abuse Authority (GLAA)
- Health and Safety Executive (HSE)
- Home Office Immigration Compliance & Enforcement (HO ICE)
- Department for Education (DfE)
- Department of Health and Social Care (DHSC)
- Welsh Government
- Local Police Forces
- SAFERjobs
- Trade Associations and Trade Unions

As a result of working with new partners, such as DfE and DHSC, EAS has enhanced information sharing at a strategic level and developed risk modelling on these specific sectors. As a result, EAS has refined its targeting strategy for both these sectors.

Throughout the year, EAS has continued to develop its staged approach to seeking compliance. This involves working with businesses that are willing to engage and see the benefits of compliance as opposed to the potential damage that can result from non-compliance. This helps to create a level playing field within the marketplace and deters businesses from seeking a competitive advantage through non-compliance.

Where non-compliance is found, EAS will engage with the business and where necessary, issue a warning letter setting out the areas of non-compliance and requiring corrective action to be taken within a specific timeframe. If needed, copies of revised or newly created documents will need to be provided to ensure that they will aid compliance with the legislation.

EAS has developed a mechanism that will automatically trigger a re-visit where significant non-compliance was established to ensure that the remedial steps taken remain in place. If the issues have not been rectified or the business has not maintained the changes, then consideration of enforcement action may be taken.

EAS continues to work closely with HMRC's National Minimum Wage team and the Gangmaster and Labour Abuse Authority. Most complaint cases submitted to EAS are about non-payment of earnings, which may have cross cutting links to issues such as a non-payment of the National Minimum Wage. A smaller number will require working with the GLAA as the employment business may also be a labour supplier into the licensed sectors. In some instances, a complaint may require all three bodies to work on a specific case, and how this is handled will be decided on a case-by-case basis. If there is an indication that there may be wider issues, the Strategic Co-ordination Group chaired by the Director of Labour Market Enforcement's office will be consulted and may lead the co-ordinated activity.

Alongside the investigation and enforcement activity, EAS continues to work with industry, trade associations and other organisations to support those operating in the sector to comply with its legislation. This work complements the publicity strand of delivery whilst also ensuring EAS can be proactive in identifying emerging trends, risks, and threats.

Enforce

EAS has a broad range of enforcement powers and although it aims to achieve compliance through support and education, there are instances that require a stronger response. In these instances where EAS has identified a small number of businesses that are deliberately or wilfully non-compliant, or where a business has failed to achieve compliance despite being given every opportunity to do so, a range of enforcement powers can and have been utilised. Activity here is summarised below.

Labour Market Enforcement Undertakings and Labour Market Enforcement Orders.

EAS has issued two Labour Market Enforcement Undertakings during this reporting year. We have been working with those businesses to support them in becoming compliant with their statutory obligations. Both cases have been discharged. In the reporting year 2018-19 there were four other LMEU's and all those undertakings were discharged within the primary phase of the undertaking.

Prosecutions

In this reporting year EAS has considered enforcement action, either prosecution or prohibition, by investigating 22 employment agencies or employment businesses. These cases have involved 34 individuals, including multiple directors as well as the limited company that the relevant employment agency or employment business traded under, that EAS might bring

proceedings against. After due consideration and reviewing all the evidence, 7 cases have resulted in prosecution proceedings, against 14 individuals. In the two cases that have been concluded, as part of the sentencing the courts also issued Labour Market Enforcement Orders (LMEO's). These LMEO's were the first for EAS.

Case study 1

In May 2019, a former Director of an employment business, supplying HGV drivers pleaded guilty to two charges under the Conduct of Employment Agencies and Employment Businesses Regulations 2003 and to two charges under the Forgery and Counterfeiting Act 1981. The latter charges related to falsifying documents to show that driving licence checks had been carried out with the DVLA on a driver that was supplied to hirers.

On 10 October 2019, the Director was sentenced at Loughborough Magistrates' Court to 25 weeks imprisonment, suspended for 2 years and a requirement to do 150 hours unpaid work. Costs were ordered and the Director was banned as a director for 2 years. The Court also issued a Labour Market Enforcement Order (LMEO).

The LMEO is in place for 2 years and includes that the Director must not be concerned in the operation of an employment business or employment agency without first notifying EAS and they cannot take up work with another employment business without first informing the owners of this conviction.

The case commenced after EAS received details from the police and EAS worked with investigators from The Insolvency Service's Criminal Enforcement Team.

Of the two cases that have been concluded, one related to a director of an employment business, where proceedings were taken against the director but not the limited company. In the second case, proceedings were concluded against a director of an employment business, but proceedings are pending against this person's co-director and limited company.

Three prosecution cases, involving 7 individuals, have commenced and are at various stages in the court process and evidence has been served against those persons.

In two further prosecution cases (involving 4 persons) proceedings have commenced but the persons running the employment agencies have not yet attended court, as there are pending bail warrants that have not yet been executed.

Case study 2

On 20 November 2019, a former Director of an employment business supplying locum GP's pleaded guilty at Stevenage Magistrates' Court to six charges under the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

He was fined £250.00 per charge (£1,500.00 in total) and ordered to pay £4,800.00 in compensation (relating to two work-seeker witnesses). This amount was a percentage of the money that was outstanding to two workers. He was also ordered to make a payment towards the costs. The Court also issued a Labour Market Enforcement Order.

The LMEO is in place for the maximum period of two years. The measures are that he is not to carry on a business as an employment agency or employment business, or to direct, or to be concerned in (whether directly or indirectly) the management of a body corporate, carrying on a business as an employment agency or employment business.

The case commenced after EAS received complaints from workers who had not been paid their wages by this employment business.

EAS recognises the potential deterrent benefits of prosecutions and prohibitions, however these types of enforcement responses need to be balanced against the evidence and potential outcome to ensure the best return on investment.

In any potential prosecution case, it is not always possible for EAS to gather the necessary evidence to meet the test in the Code for Crown Prosecutors. The decision to bring proceedings is a matter for the Department's lawyers.

Some cases are not progressed to full proceedings as they might not meet the required evidential standard. Such cases are now assessed to see whether there is scope to issue an LME undertaking and/or order.

There are other cases where investigations are continuing, and these are at different stages in the investigation process. They include:

- employment businesses withholding the payment of wages to their? temporary workers; and
- entertainment/model agencies failing to pass money to work-seekers that they have received on behalf of them.

Prohibitions

No prohibition applications made by EAS have been concluded during the reporting year. There were 4 separate cases, involving six individuals, that were under consideration by EAS to be prohibited. There are two applications (two employment business) who are currently (at the time of this report) still under consideration. The other cases were not progressed due to a lack of sufficient evidence that that reduces the likelihood of a successful outcome. However, in one case, involving three persons, the EAS' enforcement lawyers issued warnings relating to

their future conduct. Currently 8 individuals are prohibited, and the current list of prohibited persons is available through GOV.UK ⁵.

Judicial Review

During the reporting year the scope of the application of the Employment Agencies Act 1973 and Conduct Regulations was challenged by a group of businesses, the Tutor Introducing Companies (TIC).

TIC applied for a judicial review in relation to the scope of EAS' legislation and powers, which resulted in a hearing on 13 February 2020 at the Queen's Bench Division of the High Court.

The Judgment was handed down on 19 September 2020. The declaration was that the definition of "employment" in section 13(1) of Employment Agencies Act 1973 included work provided by persons, who provide their services, including tutoring services, on a self-employed basis.

⁵ <https://www.gov.uk/government/publications/list-of-people-banned-from-running-an-employment-agency-or-business/employment-agency-standards-inspectorates-eas-people-prohibited-from-running-an-employment-agency-or-business>

EAS Performance

A key strategic objective for EAS this reporting year was to utilise the increased resources to enable more risk and intelligence led operations and achieve greater balance between that and dealing with complaints. During this year EAS has increased the number of proactive visits in proportion to the rise in the number of complaints received. This is an important development as it supports businesses by combining information and guidance to help educate and support future compliance.

Number of complaints received

In 2019/20, EAS received 1698 complaints, compared to 1953 in 2018/19. This amounted to an approximate reduction of 15% in the number of complaints received. This reduction was not unexpected and follows trend data.

Over the course of 2019/20, EAS recovered approximately £59,500 for individuals who were not paid for reasons ranging from administrative error to deliberate non-payment. Most of the money recovered related to non-payment of wages to temporary workers, or where fees were being charged for work finding services.

In 2019/20 EAS recovered
£59,500 for workers.

Since April 2008 Inspectors
have recovered over £1.6
million.

Further details and analysis of the data relating to 2019/20 can be found in the Annexes.

The largest volume of complaints made to EAS this year continues to be about the failure of an employment business/agency to pay a worker (wages or earnings).

EAS continue to receive referrals where individuals have paid fees to photographic studios and were seeking refunds. EAS does not regulate photographic studios so the complaints were signposted to both Trading Standards and Action Fraud. EAS are keen to maintain and develop intelligence sharing with such partners.

Number and outcomes of EAS operations

EAS continue to develop improved ways to utilise intelligence/complaint data to identify and better understand the behaviours that continue to drive the high level of complaints.

EAS uses an assessment of intelligence and risk to plan targeted operations. In the reporting year, EAS undertook 14 targeted operations in geographical locations and occupational sectors and during these operations EAS conducted a total of 303 visits. This was an increase of 32% from the previous reporting year.

EAS was able to more efficiently deploy its resources as a result of this targeted strategy, allowing it to conduct more visits in this reporting year.

There were 40 re-visits or follow up visits during the reporting year, which now form part of a rolling programme. These were mainly to agencies operating in high-risk sectors and in most cases the improvements were being sustained, which resulted in no further action from EAS.

There are two types of operation:

- EAS unitary operations looking at high-risk sectors; and
- Joint operations with a wide range of strategic partners.

The joint operations this year have included joint visits with HMRC and the Home Office. EAS have also shared intelligence and planned operations for unitary inspections with DHSC, Welsh Government, Local Authorities and the GLAA.

Some of the operations were looking at businesses who supply into the public procurement space including those supplying teachers to the Welsh government, to Local Authorities in England and those who are supplying workers into the NHS on the DHSC framework. This work took place under EAS's Advise and Protect strategies.

Other operations were conducted in line with the DLME's strategy 2018/2019 (which identified warehousing, healthcare, construction, and hospitality as priority sectors) or as a result of intelligence relating to EAS high risk sectors. Most infringements related to non-compliance with:

- the required content of the terms and conditions or contracts given to temporary workers when they engage with an employment business.
- the information required to be collected and passed onto the worker or hirer.

Where infringements were found, EAS issued a total of 286 warning letters to the relevant employment business and sought compliance with the relevant provisions of the legislation. This was an increase of 40% from the previous reporting year.

Month	Type	Number of Visits
April 2019	Sectoral (Hospitality)	31
May 2019	Geographical (Kent)	45
June 2019	Sectoral (Teaching Wales)	20
July 2019	Geographical (Wales)	2
July 2019	Revisits (LMEU)	1
July / August 2019	Follow up visits after complaint dealt with	39
September 2019	Sectoral (Construction)	34
October 2019	Sectoral (NHS)	10
October / November 2019	Sectoral (Teaching England)	34
November 2019	Sectoral (Care Sector – Local Authority)	5
November 2019	Sectoral (Care Sector – other partners)	3
November / December 2019	Sectoral (Construction)	24
January 2020	Sectoral (Warehousing)	37
February 2020	Geographical (South West)	18
March 2020	Postponed due to COVID -19 Pandemic	-
Total		

Note: Data on the number of infringements found during the targeted ops is being reviewed to ensure its accuracy and will be published later.

Freedom of Information Requests

EAS received five Freedom of Information requests during the reporting year and responded to 100% of requests within the deadline. There were also requests made for information about EAS investigations. However, EAS does not publish the detail of investigations, or reveal information captured during an inspection, unless it leads to a prosecution, prohibition, or the issue of a Labour Market Enforcement Order, which are a matter of public record. Section 9 of the Employment Agencies Act 1973, which sets out the inspectors' enforcement powers, makes it illegal for EAS inspectors to disclose any information to a third party that has been

obtained during any EAS investigation, without the permission of the person providing the information.

Continuous Improvement

To drive further efficiencies EAS have embedded new case working and management software:

- A case management system (CMS)
- An analytical and geographic information system (GIS) (Find-IT) which is being developed by the Health & Safety Laboratory (HSL), part of the HSE.

These digital tools support greater automation of the work EAS undertakes and decreases the amount of time inspectors spend dealing with administrative duties. It also frees up capacity for inspectors to conduct more compliance investigations and enables them to work more closely with industry.

Both systems are intended to bring about positive change in the way the team works.

The importance for both the team and the business lies in:

- The scalability and adaptability of the software through modelling of real life/business process and accommodating growth in team size.
- The security aspects of maintaining case data in a consistent manner in a secure environment.
- Shareability - ensuring that individuals can seamlessly share work, either with managers or peers.
- Intelligence gathering - presentation of the overall picture for Management Information and reporting.

In addition, Find-IT brings a wider benefit. EAS has chosen to work with HSE as part of the cross-Whitehall Regulatory Future's Forum, which has provided the impetus to share data across government organisations. EAS' data partners are Companies House and GLAA. Once Find-IT is fully implemented, EAS will be a forerunner in the use of sharing government data for geographical analysis.

Both Find-IT and CSM are at different stages in development. The CMS went live in February 2019 but was missing important reporting functionality. A decision was taken to bring on board additional project management resource to revive the relationship with both sets of suppliers, to provide analysis of the contract cover and future spend, to deliver team-wide training as the team grew, and to galvanise attempts to find a solution to the reporting issue. By October 2019, the CMS had completed a stable pilot period, and HSE began work on the development and implementation process for Find-IT. The second half of the reporting year saw the commencement of data transfer between the CMS and HSE, using the dataset held by the CMS.

The year ahead will see us working to continuously improve the CSM through version upgrades and system changes that refine its alignment to our own case management process, which itself is going through a period of reflection and improvement. In the next reporting year, the Find-IT system will be ready to deploy, and the shared data between the CSM and HSL will contribute to the intelligence functionality needed for reporting and planning.

Information on and contacting EAS

The EAS website can be found at: <https://www.gov.uk/government/organisations/employment-agency-standards-inspectorate>

Further information about the legislation that agencies and employment businesses are obliged to comply with are on Gov.UK - <https://www.gov.uk/employment-agencies-and-businesses>

There is further information on Gov.UK about agency worker rights – <https://www.gov.uk/agency-workers-your-rights>

Anyone who wishes to seek advice and guidance about issues with an employment agency or employment business should in the first instance contact Acas (0300 123 1100). If appropriate, Acas will offer to transfer the call to EAS so that EAS can determine if there is a complaint that should be handled by us.

To submit a complaint in writing, a complaint form is available on the Pay and Work Rights page on Gov.UK. Completed forms that relate to employment agencies or employment businesses will be forwarded to EAS for consideration - <https://www.gov.uk/pay-and-work-rights>.

EAS can also be contacted at eas@beis.gov.uk or by calling 020 7215 5000. Please provide a case reference number if you have previously been allocated one.

Annex A - EAS case statistics – 2014 to 2020

Cases	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Complaints received	603	781	828	1261	1953	1698
Complaints cleared¹	581	730	750	1267	1805	1836
Targeted inspections	23	172	142	145	261	303
Infringements found (cleared cases and inspections)²	186	782	782	1071	1242	1490
Total number of warning letters issued	133	275	387	321	415	382

Notes:

Complaints received late in the previous reporting year are generally not cleared until the current reporting year so can lead to a higher reported number of cleared cases when compared to those received.

Data on infringements found is subject to change once the data for targeted operations is reviewed and validated.

Annex B - Complaints cleared, targeted inspections and analysis of infringements carried out (by sector) – 1 April 2019 to 31 March 2020

Types of agencies	Number of cases	% of total cases	Number of infringements*	% of total cases
Healthcare (carers/nurses/doctors)	154	9	201	13
Industrial	218	13	288	19
Drivers	65	4	56	4
Construction	153	9	324	22
Secretarial/Commercial/Admin (office workers)	57	3	65	4
Entertainment(actors/extras)	13	1	0	0
Models (promotional workers)	96	6	15	1
Nannies/Au Pairs/Childcare (domestic workers)	6	0	2	1
Hotel/Catering/Hospitality	241	14	141	9
IT/Online (including Job Boards)	11	1	6	0

Types of agencies	Number of cases	% of total cases	Number of infringements*	% of total cases
Professional/Executive (engineering and technical)	35	2	38	3
Teachers/Tutors	101	6	307	21
Sectors not listed	548	32	47	
Total	1698	100%	1490	100%

NB: All percentages are rounded to the nearest whole number

*Data on infringements found is subject to change once the data for targeted operations is reviewed and validated.

Glossary

Employment Agency: For the purposes of the Employment Agencies Act 1973, "employment agency" means the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of providing services (whether by the provision of information or otherwise) for the purpose of finding persons employment with employers or of supplying employers with persons for employment by them.

Employment Business: For the purposes of the Employment Agencies Act 1973, "employment business" means the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of supplying persons in the employment of the person carrying on the business, to act for, and under the control of, other persons in any capacity.

Labour Market Enforcement Undertakings and Orders: The Immigration Act 2016 introduced two new enforcement tools for EAS where trigger offences set out in the legislation are breached: Labour Market Enforcement Undertakings (LMEU) and Labour Market Enforcement Orders (LMEO). More information on these can be found in the Code of Practice on Labour Market Enforcement Undertakings and Orders⁶.

Prohibition: EAS can also consider seeking to prohibit individuals from running, owning or managing an employment agency/business because of their misconduct or unsuitability through an Employment Tribunal (ET). The maximum prohibition period is up to 10 years and it is for the ET to determine a suitable length of time based on the information presented to it.

It is possible for EAS to approach the original tribunal to seek a further order if it is deemed necessary due to the nature of the misconduct. It should also be noted that a prohibition can be sought against other persons to protect persons and prevent the misconduct that has resulted in an order being sought in the first place. Prohibitions may also be sought where individuals have been successfully prosecuted by another authority, and EAS consider that sanctions imposed make them unsuitable to run an employment business or agency.

Prosecutions: Where appropriate, EAS can consider prosecution for serious breaches of its legislation. Breaches of the legislation can be treated as 'either way' offences, which means that they could be tried in a Magistrates' or Crown Court. If convicted, in either Court, unlimited fines may be imposed against all defendants. As noted above, a court may also consider issuing a LMEO.

Umbrella Company: There is currently no specific definition of an Umbrella Company, but BEIS is working on a definition which will be published in due course that will form part of potential changes to legislation that will bring them within EAS' remit. For the purposes of this report, an

⁶ <https://www.gov.uk/government/publications/labour-market-enforcement-undertakings-and-orders-code-of-practice>

Umbrella Company is the organisation that employs a work-seeker and is responsible for paying them, based on information and money passed to them by an employment business.

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