

**EMPLOYMENT AGENCY
STANDARDS (EAS)
INSPECTORATE**

**ANNUAL REPORT
2009 - 2010**



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1) Introduction

This report outlines the performance and achievements of the Employment Agency Standards inspectorate (EAS) between April 2009 and March 2010. The inspectorate is part of the Department for Business, Innovation and Skills. This report is structured around three key strategic outcomes:

- (i) Ensuring more robust and effective enforcement of the law;
- (ii) Raising the visibility and reputation of EAS among vulnerable agency workers and, also, within the industry;
- (iii) Delivering better customer service.

Mission Statement

2. The mission of EAS Inspectorate is:

To work with agencies, employers and workers to ensure compliance with employment rights, particularly for vulnerable agency workers.

EAS's Responsibilities

3. The EAS enforces the Employment Agencies Act 1973, and the associated Conduct of Employment Agencies and Employment Businesses Regulations, across Great Britain. The inspectorate has powers to tackle rogue employers through issuing warnings; seeking prosecutions; and prohibiting individuals from running an employment agency for up to 10 years.

2) **More robust and effective enforcement**

4. Progress continued to be made during 2009/2010 in strengthening our enforcement of the employment agencies' legislation. The inspectorate's Hampton Implementation Review (published in November 2009) reported that:

“EAS was emerging from a period of significant organisational change over the last 18 months. The change appears to have been well focused and well managed. EAS has a clear sense of purpose understood by staff and stakeholders. The direction of travel is very positive and EAS are already delivering on their plans to become more Hampton compliant.”

5. Enforcement of the legislation is guided by a structured assessment of risk. Successes during 2009/10 included:

- Inspection of 50 teaching and childcare agencies as part of a targeted national exercise called Operation Hazard. Towns and cities visited included London, Birmingham and Newcastle upon Tyne. In total, inspectors found and tackled 140 breaches of the law. These varied in severity. The most serious offences included not agreeing terms with workers before trying to find them work, not obtaining all the necessary information from the hirer about the job and not confirming in writing to the hirer essential information such as name of the worker or to the worker the location of the assignment.
- Recovery in June of over £17,000 for four engineers in West Sussex. As a result of not being paid on time one engineer had to sell his car to pay his rent and another had to borrow money from relatives to pay his mortgage but, following the intervention of EAS inspectors, the workers received £15,000 within three days with the remainder arriving shortly after.
- Successful targeted inspections in a range of locations, including Portsmouth, the West Midlands, Manchester and Leeds.

6. Following each such investigation, we issued press notices to promote the inspectorate's work and to raise EAS's profile with both employers and workers. In total, we issued 9 press notices during 2009/10. These received good coverage in the trade, local and national press (e.g. The Mirror, London Evening Standard, Recruiter magazine).

7. Over the course of 2009/2010, EAS recovered £204,000 for workers. This was a significant increase on the £63,341 recovered during 2008/2009.

Case-study 1

The directors of an HGV recruitment company were banned from running an employment agency for up to ten years at a hearing at Leeds Employment Tribunal following an investigation by the EAS Inspectorate.

The agencies supplied HGV drivers to hirers in Yorkshire and the North of England and traded under various names including "Drivewise Recruitability", "Drivewise Recruitment" and "Drivewise/Staffwise". These recruitment businesses run by David Allon, Marc Hedley, Sian Pemberton and Angela Roberts breached the law by failing to keep records, withholding payment of wages to drivers, failing to issue terms of employment to drivers, failing to carry out checks on drivers, such as confirming their identity or that they held the correct driving licenses and supplying drivers who did not hold the required licenses.

The companies are now dissolved and the businesses have ceased trading. The Tribunal banned David Allon from running or being concerned with running an employment agency or employment business for the maximum period of ten years whilst the other three directors were banned for five years.

8. In June 2009, EAS banned two Directors from running an employment business (see case study 1). The inspectorate also secured a successful prosecution against an employment business which was supplying workers to the rail industry (see case study 2). During the period covered by this report, other cases were considered for potential prosecution or prohibition. Some were deemed not to be in the public interest and some cases are ongoing. Since the end of March 2010, EAS has secured a further two successful prohibitions whereby two former modelling agency Directors were banned from running an employment agency for a total of twelve years.

Case-study 2

Mrs Christine Lewiss, the main director of Rail Recruit Ltd., pleaded guilty to nine charges of contravening the Employment Agencies Act 1973 and associated Conduct Regulations at Great Yarmouth's Magistrates Court. All charges related to failing to pay workers for the work they had done.

Following a series of complaints to EAS from a large number of workers who had not been paid, an inspector visited the business and advised the director of the law and our powers to prosecute if payment was not made but payment was not forthcoming.

Christine Lewiss was ordered by the Court to pay compensation in the order of £11,000 plus a further £1,000 towards costs. Christine Lewis subsequently appealed the Judgement. The appeal was dismissed although the judge reduced the amount of compensation payable to take into account the tax and National Insurance contributions that would have been deducted from the workers' gross pay.

3) Raised visibility among vulnerable agency workers and the industry

9. The Pay and Work Rights (PWR) helpline was formally launched in October 2009 and between October and March 2010 the Government ran a vulnerable workers awareness campaign to promote awareness of this new helpline and to inform agency workers and recruitment agencies where to go to get help.

10. The campaign increased calls to the PWR helpline by 124%. The proportion of calls to the helpline that are EAS-related has remained steady at about 10% in the period since the campaign began. Campaign pages at Directgov also received over 500,000 visits over the

course of the campaign.

11. A comprehensive evaluation of the campaign was undertaken, including a close look at its impact on employment agencies and agency workers. From a group sampled shortly after the close of the campaign, 48% of those recruitment agencies asked recalled receiving advertising relating to their workers' rights and entitlements within the last 2-3 months. Roughly the same number recalled the direct mail that had been sent to them as part of the campaign, while 29% were aware of radio advertisements highlighting vulnerable workers' rights. The information and materials were well received, with 93% of employment agencies asked agreeing that employers who dealt fairly with their employees would support the campaign, and 73% being encouraged to call the helpline or visit the appropriate website.

12. Between February and March 2010, the TUC, BIS, the EAS and the four other government enforcement bodies collaborated in running 5 regional briefing sessions for local union officials. These were aimed at raising awareness of the role and functions of the enforcement bodies (including the EAS), considering how unions could best support the government's enforcement work, and raising awareness of the Pay and Work Rights line.

13. Presentations were given by BIS and the enforcement bodies, based around a short booklet about their roles and responsibilities. The events were well-attended and there was a good deal of constructive engagement between the enforcement bodies and local union representatives. The feedback from union delegates was very positive (a 100% satisfaction rate). The events were particularly useful in raising the profile of the EAS.

14. The TUC hope to follow up this work as part of their current Union Modernisation Fund (UMF3) project by producing a video in collaboration with the enforcement bodies. The video will cover similar ground to the live presentations, and will be displayed on the vulnerable worker website which is being established as part of the TUC's UMF project. It will also be used for vulnerable worker courses.

15. In the coming year, priority will be given to building closer links with Citizens Advice Bureaux.

Working with the recruitment industry

16. The inspectorate works closely with the REC and TEAM trade associations, who have been very supportive of EAS's risk based approach to their work.

17. EAS inspectors spend a large amount of time raising awareness of the regulations among recruitment agencies and with other organisations connected with the industry. Where possible, they are encouraged to do this through collective events. Examples during 2009/10 included presentations to local recruiters organised by the HSE about the protection of migrant workers.

4) Better Customer Service

18. During 2009/10, we received 1,714 complaints (an increase of 9% on the previous year). We met our target of responding to 75% of cases within 6 weeks.

19. An independent survey of callers carried out as part of an overall evaluation of the PWR helpline showed that almost 90% of callers were satisfied with the service they received. A similar proportion of both employers and workers said they would recommend the service to a friend or colleague. All the employers surveyed said they would use the helpline again if they had other enquiries related to employment issues.

20. During the year, EAS took steps to increase its transparency and accessibility through redesigning and re-launching its website (www.bis.gov.uk/eas). The improved site now receives around 900 visits per month, and includes links to past press notices, guidance for employment agencies and a list of people banned from running an agency.

21. EAS received 19 Freedom of Information requests during the year and responded to 17 within the deadline. Two cases were subject to an internal review and both reviews were answered within the deadline. The most frequent request was for detailed 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

22. As part of delivering better customer service and increasing our impact, EAS has been working more closely with the other workplace enforcement bodies. The single Pay and Work Rights line 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. Since the formal launch, the helpline has diagnosed more than 230 such cases. The most common multi-issue cases were national minimum wage allegations where an employment agency is involved.

23. Joint work has been initiated with the National Minimum Wage inspectors of HM Revenue & Customs (HMRC) to help handle these cases, and explore other opportunities for closer collaboration. During the course of the year EAS held a series of joint management meetings with HMRC, discussed ways to work more closely together and shared intelligence through the new information-sharing gateway created in 2009 as part of the Employment Act 2009.

Best Practice Group

24. The EAS inspectorate has also played a key role in the Best Practice Group that was established in autumn 2008 to provide more collaboration at working level across all five enforcement bodies. The Group includes EAS, the Gangmasters Licensing Authority and the National Minimum Wage team from HM Revenue and Customs and meets quarterly. The initial focus of the Group was the launch of the new helpline but it has also:

- Agreed and refined a cross-agency agreement on 'Procedures for handling multi-issue complaints'.
- Appointed and maintained a network of 'single points of contact' responsible for liaising on multi-issue cases when they are first referred.
- Arranged training for inspectors on the enforcement work of the other agencies. NMW inspectors, for example, gave presentations at an all staff EAS event in December 2009.
- Organised a joint outreach programme – in partnership with the TUC – to raise trade union awareness of the work of the enforcement bodies.

EAS Enforcement Policy

25. In March 2010 we published an Enforcement Policy Statement for the first time. Aimed principally at the recruitment industry, the documents sets out the principles of enforcement we follow (the five Hampton code principles of proportionality, accountability, consistency, transparency and targeting) when investigating complaints against Employment Agencies and Businesses. The policy sets out how investigations and inspections will be conducted, the type and number of documents that will be examined and a clear statement of the remedial action that will be taken by the inspectorate where practices breach the Act and Conduct Regulations.

5) Forward Look

Targets

26. The inspectorate's published targets for 2010/11 (see Annex C) make it clear that the inspectorate's main role is to ensure compliance with the legislation. The priority outcomes are: (i) to increase compliance; (ii) to improve EAS's effectiveness; and (iii) to deliver good customer service. In a number of areas, we have set higher service targets than for 2009/10.

Improved risk assessment

27. In the course of 2009/10, we have been developing a more sophisticated risk matrix in line with Hampton principles and in response to the Hampton Review published in November 2009. This is designed to make inspection activity more powerful and cost-effective by targeting inspection activity on businesses most likely to be flouting the law. Improved targeting will improve the competitive environment for employment businesses by reducing the risk of reputable businesses being undercut unfairly. The impact should also be fewer nugatory inspections for compliant businesses. We will test the risk matrix in the first half of 2010/2011, prior to refining and applying it more widely.

Securing compliance with amended regulations affecting modelling and entertainment agencies

28. Amendments were made to the Conduct Regulations through a Statutory Instrument made in July 2010 which will come into force on 1 October 2010. These changes will tackle the abuse of upfront fees by banning the taking of these fees from models, extras and walk-ons. Coupled with the tightening of the current cooling off period, including its extension to 30 days for certain occupations, we are confident that these measures will be effective in targeting the rogues that take advantage of aspiring actors and models.

29. Other changes will streamline the recruitment process by removing unnecessary burdens when agreeing terms and provide increased clarity and reduced burdens when agencies carry out suitability checks. There are also amendments to the requirements when recruiters place adverts, to aid the awareness of work-seekers on the nature of the job that was being applied for, specifically whether the job is temporary or permanent.

30. A key task for the inspectorate will be in ensuring that these amendments are understood, and are being complied with, particularly in the modelling and entertainment sectors where they will have the biggest impact. The inspectorate has recently published revised and improved guidance on this and other obligations at www.businesslink.gov.uk/employment and <http://www.direct.gov.uk/en/Employment/Understandingyourworkstatus/Agencyworkersandemploymentagencies/index.htm>

Awareness-raising in schools

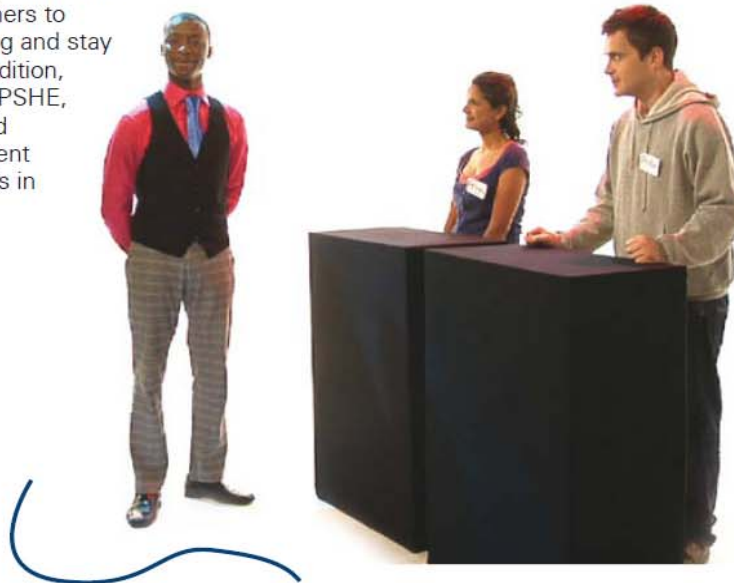
31. Action is being taken to raise awareness of employment rights in schools through the production and distribution of a DVD teaching resource entitled *Starting Out*. It has been developed for Key Stage 4 (aged 15 or 16 yrs) to raise young people's awareness of their employment rights and responsibilities at a time when they will be entering the labour market for the first time through part time work or work experience. The topics featured in the DVD include an introduction to Employment Agency rights and the National Minimum Wage, Health and Safety in the workplace, identifying and overcoming discrimination and bullying at work and where to look for further help on employment law.

STARTING OUT: YOUR EMPLOYMENT RIGHTS & RESPONSIBILITIES



Welcome to *Starting Out: your employment rights and responsibilities*

Starting Out: your employment rights and responsibilities is designed to raise young people's awareness of their employment rights and responsibilities. Created for Key Stage 4, *Starting Out* encourages learners to engage with work-related issues at a significant stage in their lives. Many young people will undertake work experience or part-time work from the age of 14, and also begin exploring their longer-term career plans. Through a combination of pre-filmed scenarios and classroom-based activities, *Starting Out* examines legal requirements, anti-discrimination rules and health and safety principles in an informative and entertaining way. *Starting Out* directly promotes the Every Child Matters programme by helping learners to achieve economic well-being and stay safe in the workplace. In addition, it supports the provision of PSHE, Citizenship and Work-related Learning and the development of PLTS and Functional Skills in English and ICT.

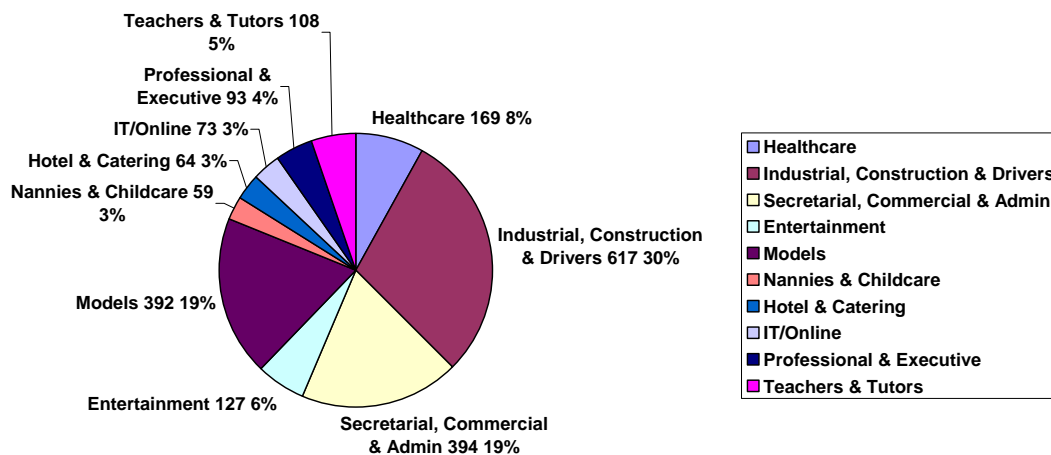


Annex A: Case Statistics 2009/2010

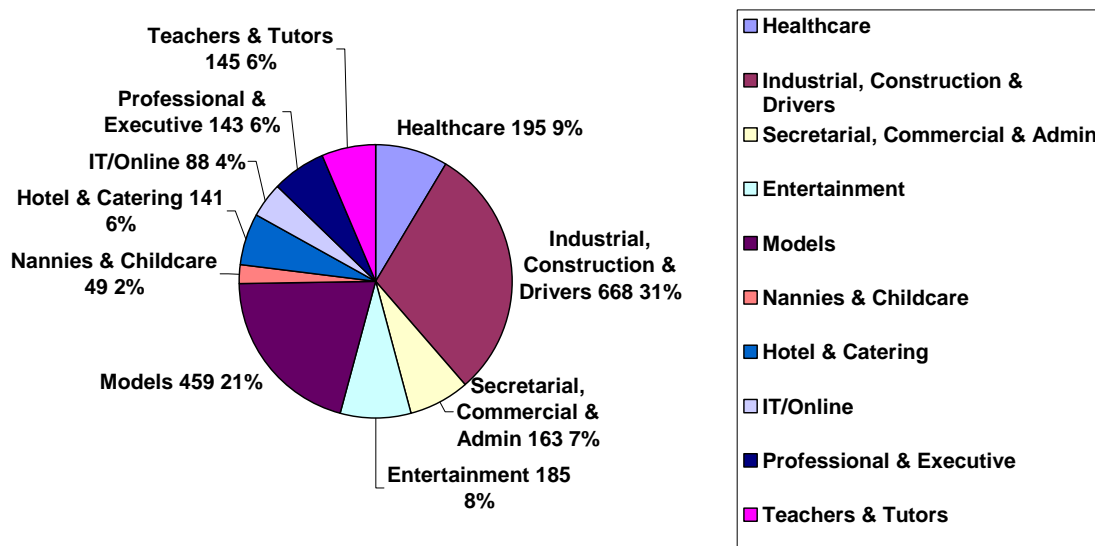
<u>Investigations</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>
Complaints received	1,103	1,244	1,567	1,714
Complaint cases cleared	1,302	1,273	1,450	1,932
Cases still in progress	291	299	547	371
Targeted inspections in high risk areas /follow up inspections	330	221	311	164
Total infringements found on all cases	1,892	1,128	2,393	2,236
Warning letters sent	558	518	692	647

Annex B: Case Statistics 2009/2010

Complaints & Investigations carried out by Sector 2009/2010



Analysis of Infringements by Sector 2009/2010



Annex C: EAS Targets for Next Period (2010/2011)

Objective 1 – To increase compliance with the EAS regulations

- To increase compliance with the regulations from the 2009/2010 level, such as through a reduction in the number of repeat offenders
- Continue to use EAS interventions to recover the maximum possible pay for workers
- Deliver and publicise seven large scale risk based investigations
- Maximise publicity for prosecutions and prohibitions

Measures:

- EAS Annual Report 2010/2011 (compared with 2009/2010)
- Number of press notices
- Feedback from the Fair Employment Enforcement Board and industry stakeholders

Objective 2 – To improve EAS's effectiveness and impact

- Improve targeting of rogue businesses by implementing the recommendations from the EAS Hampton review 2009
- Increase joint working with other enforcement bodies (particularly HMR&C's National Minimum Wage Inspectors and the Gangmasters Licensing Authority)
- Each inspector to participate in at least one awareness raising event a year
- Work closely with industry bodies to develop better guidance for employment agencies on their legal obligations and raise awareness of the regulations.

Measures

- EAS Annual Report 2010/2011(compared with 2009/2010)
- Feedback from the Better Regulation Executive and other workplace enforcement bodies
- Staff reports

Objective 3 – To deliver good customer service

- Positive feedback from employment agencies, employment businesses, and from workers on EAS's performance
- 90% of the complex enquiries passed to EAS by the Pay and Work Rights helpline receive a response within seven working days
- Complete 80% of investigations (including issuing any warning letters) within six weeks of the complaint being passed to EAS
- Papers for 95% of potential prosecutions/prohibitions submitted to the HO Investigations Manager within two months of receiving advice from BIS Legal
- Appropriate requests from other enforcement agencies met on time
- Continue to develop the expertise and professionalism of EAS staff by matching training to needs
- Ministerial, public and Freedom of Information correspondence deadlines met on time

Measures

- EAS Annual Report 2010/2011 (compared to 2009/2010)
- Staff reports
- Customer satisfaction surveys

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