

BERR | Department for Business
Enterprise & Regulatory Reform

Employment Agency Standards
Inspectorate

Annual Report for 2007/08

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Foreword by Pat McFadden – Minister for Employment Relations and Postal Affairs

I welcome the fourth publicised annual report of the Employment Agency Standards (EAS) Inspectorate.

Temporary and agency workers are a key part of the UK's labour market. Over the past few years we have implemented a number of significant changes to ensure that the flexibility hirer companies need, and that agency workers value, is backed by appropriate protections for agency workers.

Last December, the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2007 ('the Amendment Regulations') were made. These implement the measures to protect vulnerable agency workers on which we consulted in 2006. The Amended Regulations addressed a number of bad practices that affect the most vulnerable agency workers, but without placing additional burdens on the majority of agencies who act responsibly and comply with their legal obligations. These are practical steps intended to address key abuses affecting vulnerable agency workers. These changes came into force on 6 April 2008.

Through the Employment Act 2008, which was recently passed by Parliament, we have strengthened the penalty regime for offences committed against employment agency legislation by enabling the most serious cases to be tried in the Crown Court. This will have the effect of increasing the maximum penalty for these cases to an unlimited fine. We have also extended the investigative powers of the EAS Inspectorate to assist inspectors in establishing the extent and scale of illegal practice, and taken measures to enable EAS and NMW inspectors to share information obtained during investigations.

The Vulnerable Workers Enforcement Forum, which I chaired, met between June 2007 and July 2008 to look at the nature and scale of the abuse of workers' rights; to examine the effectiveness of the existing enforcement framework; and identify improvements that could be made. The Forum's final report published in August 2008 identified a package of measures to ensure that vulnerable workers receive the advice and protection they need; that businesses, in particular small businesses, receive support and advice to comply with employment law; and that employment rights are effectively enforced.

As a part of the package of measures in the Vulnerable Worker Enforcement Forum the Government committed to setting up Fair Employment Enforcement Board (FEEB), which I also chair. It brings together the enforcement and independent experts to improve and co-ordinate enforcement activity. This will be an important part of making the enforcement bodies more joined up in their approach to enforcement, as well as ensuring oversight of other key measures in the Forum's report, such as a single enforcement helpline and more money to make sure people know about their rights at work.

We have also doubled the number of EAS inspectors. The new inspectors are now in place and undertaking inspections. Over recent months, we have also started to transform the operations of EAS, through running monthly large-scale, targeted investigations and giving more publicity to the warnings that we issue to non-compliant businesses. And we have launched a significant campaign to raise the profile of EAS through a "Know Your Rights" booklet for agency workers and a single page leaflet highlighting how agency workers can get help.

I hope that those of you with an interest in the recruitment industry will find the following report helpful, which essentially sets out the work of the EAS Inspectorate, covering the period April 2007 – March 2008.

A handwritten signature in black ink, reading "Pat McCadden". The signature is written in a cursive, flowing style.

Executive summary

The Department for Business, Enterprise and Regulatory Reform (BERR) was formed in June 2007 and leads work to create the conditions for business success through competitive and flexible markets that create value for businesses, consumers and employees. It drives regulatory reform and works across Government and with the regions to raise levels of UK productivity. It is the voice for business across Government and also responsible for promoting choice and quality for consumers, and for ensuring an improved quality of life for employees.

BERR's Employment Agency Standards (EAS) Inspectorate, which is responsible for enforcing the agency legislation, doubled the number of EAS inspectors during 2008. The newly-doubled team will work more proactively and will aim to raise its profile. The EAS will use its extra resources and new powers to ensure agency workers are fairly treated. As well as following up complaints, the EAS team will carry out proactive investigations targeted on basis of risk (including monthly large-scale investigations). EAS Inspectors are also building networks of key stakeholders and working with them and other enforcement agencies to ensure that vulnerable agency workers are not abused.

The EAS mission is to work with good agencies and employers throughout Great Britain to raise standards within the industry, to advise and encourage compliance where it is necessary and to come down hard on those who disregard the law and mistreat or exploit agency workers.

The Government's consultation on a package of measures to protect the most vulnerable agency workers has resulted in amendments to bring revisions to the Conduct Regulations which came into force on 6 April 2008 and better guidance for workers and agencies.

In addition, the changes in the Employment Act 2008 will enable criminal offences under the Employment Agencies Act 1973 ('the 1973 Act') to be capable of being tried in a Crown Court and give the EAS Inspectorate clearer investigative powers regarding those suspected of committing offences under the 1973 Act. The changes in the Act will enable EAS and NMW inspectors to share information obtained during investigations where this information will help them carry out their duties.

By making it more difficult for the small minority of rogue agencies to cut corners at the expense of the reputable side of the industry, these changes should benefit both workers and most agencies.

The Fair Employment Enforcement Board (FEEB)

Establishing a Fair Employment Enforcement Board was one of the measures recommended in the final report of the Vulnerable Worker Enforcement Forum and will oversee key projects set out in the conclusions of the Forum. The Forum is chaired by Pat McFadden, the Employment Minister, and brings together those authorities enforcing key workplace rights, as well as the TUC, CBI, Citizens Advice, and FSB. The Forum met for the first time on 5

November. This will be an important part of making the enforcement bodies more joined up in their approach to enforcement, as well as ensuring oversight of other key measures in the Forum's report, such as a single enforcement helpline and an awareness-raising campaign.

A sustained high profile awareness- raising campaign aimed at agency workers will be run between November 2008 and March 2009. A booklet "Agency Workers – Know Your Rights" and one page flyer giving out EAS Helpline contact details has been launched. The booklet and flyers are available through Direct.gov website and are being distributed through key channels and intermediaries, such as Citizens Advice, trades unions and trade bodies.

EAS inspectors engage with stakeholders by speaking at or participating in industry events in their regions. EAS also offers to hold events for trade associations as a part of communication route for raising awareness of agency regulation and for increasing compliance. An EAS inspector also takes part in the Vulnerable Worker Pilot in London as a member of the employment standards sub-group.

1. Introduction

This is the fourth report of BERR's Employment Agency Standards (EAS) Inspectorate and covers the period April 2007 to March 2008. The EAS Inspectorate is responsible for enforcing the provisions of the Employment Agencies Act 1973 ('the 1973 Act') and Conduct of Employment Agencies and Employment Businesses Regulations 2003 ('the Conduct Regulations'), which came into force on 6 April 2004.

Businesses covered by the 1973 Act

The Act divides those operating within the private recruitment industry into two categories – employment agencies and employment businesses.

An employment agency introduces work-seekers to prospective employers, for direct employment by those employers. This is usually known in the industry as 'permanent recruitment' even though the employment may only be for a fixed period.

An employment business supplies individuals it employs to hirers for temporary assignments or contracts where the individuals work under the control of hirers. This is usually known as 'supply of temporary workers'.

A number of companies will cover both sides of the business and therefore fall into the definition of both employment agency and employment business. For ease of reference, wherever possible throughout this Report, 'agency' will be used to refer to both employment agency and employment business.

Amendment of agency regulations

Following a consultation exercise, Amendment Regulations to the Conduct of Employment Agencies and Employment Businesses Regulations 2003 came into force on 6 April 2008. These are practical steps intended to address key abuses affecting vulnerable agency workers.

Main changes include:

- Giving workers the right to withdraw from services provided by an agency, such as accommodation and transport, without suffering any detriment
- A ban on entertainment and modelling agencies taking fees on the day or during a casting session and for including details of a work-seeker in a publication and introduce a 7 day cooling off period.
- Easing administrative burdens on agencies: they will no longer have to provide full written information to workers on assignments of less than 5 working days under specified circumstances

Guidance material on the Amendment Regulations is available on the BERR website at <http://www.berr.gov.uk/files/file45239.pdf>

This guidance material should be used in conjunction with the main guidance on the BERR website at <http://www.berr.gov.uk/files/file23765.pdf>

The Employment Act 2008

We have taken measures in the Employment Act, which was recently passed by Parliament, to increase the penalties for agencies that refuse to comply with the legislation by enabling the most serious cases to be triable in the Crown or a Magistrates Court. The Act will also strengthen the investigative powers open to the EAS Inspectors by enabling inspectors to seek financial records of agencies from banks under certain circumstances. The overall effect of the Employment Act is to strengthen, simplify and clarify key aspects of UK employment law. The Act improves the effectiveness of employment law to the benefit of individuals, employers, trade unions, and the public sector. The Act brings together both elements of the Government's employment relations strategy increasing protection for vulnerable workers and lightening the load for law-abiding business. The Act promotes compliance and helps to ensure a level playing field for law-abiding businesses. The employment agency provisions of the Act will come into force on 6 April 2009.

2. Background

The EAS Inspectorate

The EAS Inspectorate was set up in 1976 to enforce the provisions of the Employment Agencies Act 1973 and Regulations made under the 1973 Act. EAS inspectors investigate all relevant complaints received (i.e. those which allege that an agency has breached the employment agency legislation). They visit agencies' premises, where appropriate, and inspect their records. The 1973 Act enables inspectors to enter any relevant business premises, which they believe are being used for the purposes of an agency, to inspect those premises and any records or other documents. They can take copies of any relevant documents kept on the premises. Inspectors also undertake spot checks in those sectors where on a risk-based analysis they consider that breaches of the legislation are more likely to occur.

Although inspectors seek in the first instance to achieve compliance through advice and persuasion (including the issuing of warning letters), the Inspectorate can take prosecution action, where appropriate, in a Magistrates' Court against an agency found to be in breach of the legislation. If the prosecution is successful, the agency may be fined up to £5,000 for each offence. Inspectors can also apply to an employment tribunal for orders prohibiting those persons who are considered to be unsuitable, from operating an agency for up to 10 years.

Following the then Secretary of State for BERR, John Hutton's announcement at the 2007 TUC conference, we have doubled the number of the EAS Inspectors. The expanded Inspectorate consists of a team of 24 regionally

based inspectors (some of whom work part-time), four staff who operate the helpline (0845 955 5105) and also provides administration support to the inspectors. From 1 September 2008 the helpline opening times have been extended from its existing times of 9.30 – 16.30 to 9.00 – 17.00 each working day. In addition to there is a management team of three (who also carry warrant cards) and an Investigations Manager. The helpline and the management team are located in London.

The EAS Inspectorate telephone helpline provides advice to agencies work-seekers, employers and other interested parties on the Inspectorate's work and to assist in interpretation of the legislation. Each year the helpline handles on average some 10,000 enquiries, including around 1,000 complaints about the conduct of agencies.

The private recruitment industry

The private recruitment industry carries a distinct responsibility to treat those who use its services (both agency workers and hirers) fairly. In order to help ensure that it meets that responsibility, there are statutory regulations and also a number of industry codes of practice and best practice guidance covering the various sectors within the industry. There are a number of trade associations representing the various elements of the private recruitment industry. These sectors include:

- The high street agencies providing services for the commercial, industrial, driving, construction, catering and care sectors,
- The modelling and entertainment sectors, and
- The IT and technology sector.

Each of these associations have a code of practice, which their members agree to follow, and will normally issue best practice guidance for its members. Trade associations also have disciplinary procedures to consider complaints concerning their members' breach of the codes of conduct. Penalties for those found to be in breach could include expulsion from the association and possibly a fine.

Earlier in the year, BERR commissioned research to establish the size of the industry and the number of agency workers. The report was published on 30 October 2008 and is available at <http://www.berr.gov.uk/files/file48720.pdf>.

3. Guidance

The former DTI produced, in conjunction with the Recruitment and Employment Confederation (REC) and Equity, a detailed guide on the provisions in the Conduct Regulations. In addition we have issued a short guide on the legislation, which also sets out the EAS Inspectorate service commitment to its clients. The guidance and details of the legislation can be downloaded from the BERR website at

<http://www.berr.gov.uk/whatwedo/employment/employment-agencies/index.html> .

As part of the Government's Service Transformation agenda to improve the way in which services are delivered by focusing on the needs of the customer, EAS is taking steps to improve the guidance available for agency workers, for agencies and for hirers. Over coming months, the 'Employment Matters' pages of BERR's website are being converged to the businesslink.gov.uk website (for employers) and the direct.gov.uk website (for employees/citizens) during 08/09. User-friendly guidance that helps employment agencies comply with employment law more easily will be published on the 'Employing People' pages of Businesslink's website in 2009. Stakeholders have contributed to the development of the guidance.

BERR recently published a booklet and a single sheet leaflet "Agency Workers: Know Your Rights". The booklet summarises agency workers' rights and the main aspects of employment agency legislation, while the single sheet leaflet provides details of how to contact the EAS. These are available at http://www.direct.gov.uk/en/Employment/Employees/Typesofworkoremployment/DG_10027514.

4. Legislation

History

The private recruitment industry in Great Britain, which provides services to work-seekers and employers looking to fill vacant posts, has existed for over 100 years. Indeed, regulation of recruitment providers is almost as old as the industry itself. It began during the first five years of the twentieth century when the Glasgow and Manchester Corporations and the London County Council obtained powers to make by-laws to regulate entertainment employment agencies. At that time the provisions largely concerned the prevention of fraud or immorality and the provision of adequate accommodation for those in service.

The Employment Agencies Act 1973

The primary legislation regulating the private recruitment industry in Great Britain is the Employment Agencies Act 1973 ('the 1973 Act'), which came into force in 1976. There is equivalent legislation for Northern Ireland which can be found on the Department for Employment and Learning website at <http://www.delni.gov.uk/index/er/employment-agency-and-business-regulations-2.htm>.

The 1973 Act places a number of obligations on agencies; the main one being to prevent a person carrying on an agency from requesting or directly or indirectly receiving any fee from an agency worker (work-seeker) for providing work-finding services. The only exception is that agencies can charge agency workers for the provision of such services for certain occupations in the entertainment, modelling and professional sports sectors. The Conduct Regulations, which are the main Regulations giving effect to the 1973 Act, came into force on 6 April 2004 and replaced the previous Regulations, which

were introduced in 1976 and repealed in 2004. As stated in Section 1 of this report, the Conduct Regulations were amended with effect from 6 April 2008 to provide some additional protection to vulnerable agency workers.

Exemptions

Section 13 of the 1973 Act sets out a limited number of exemptions to the legislation. These include work-finding services provided by university appointments boards and certain other educational institutions, by local authorities, by trade unions, employers' organisations and certain professional bodies for their members, by charitable organisations. Also excluded are companies obtaining employment exclusively for ex-members of HM forces or for persons released from prisons or other institutions.

Conduct of Employment Agencies and Employment Businesses Regulations 2003

When the Conduct Regulations were introduced in 2004, certain obligations in the previous legislation, which were considered to be outdated and placed undue restrictions on the recruitment industry, were removed and other new obligations were introduced to protect workers. Guidance material is available on the BERR website at www.berr.gov.uk/employment/employment-agencies/

Copies of the Conduct Regulations (SI 2003/3319) can be downloaded from the Office of Public Sector Information's website at http://www.opsi.gov.uk/si/si2003/uksi_20033319_en.pdf.

The Amendment Regulations (SI 2007/ 3575) can be downloaded from the Office of Public Sector Information's website at: http://www.opsi.gov.uk/si/si2007/uksi_20073575_en_1

EAS working with the Gangmasters Licensing Authority

The Gangmasters Licensing Authority (GLA) was established on 1 April 2005 (following the introduction of the Gangmasters (Licensing) Act 2004) in response to the Morecombe Bay tragedy and particular issues and problems in the agricultural and associated food processing sectors. The GLA is responsible for introducing and operating a licensing scheme for labour providers working in the agricultural and horticultural sectors and those gathering shellfish and working in related food processing and packaging sectors. Section 27 of the Gangmasters (Licensing Act) 2004 which came into force on 1 October disapplies the Employment Agencies Act 1973 in relation to those activities carried on by employment agencies and businesses which require a licence under the GLA. The GLA opened for business for licence applications in April 2006; it issued 1,201 licences between 1 April 2007 and 31 March 2008.

The EAS Inspectorate works closely with the GLA as follows:

- The helpline team provide advice to the GLA on the suitability of applications for licences based on the EAS's information on applicants.

- Most inspectors are in regular contact with GLA colleagues and a Memorandum of Understanding between the EAS Inspectorate and GLA has been agreed to facilitate close co-operation between the organisations.
- The GLA and EAS work closely together to share information about non-compliant or suspect business operating across their respective sectors, and in circumstances where there is evidence that a labour provider may be moving out of a licensed sector to a sector regulated by the EAS.
- GLA licensing conditions are based on and broadly consistent with the Conduct Regulations.

The EAS Inspectorate and GLA officials are actively developing swifter and more effective information-sharing procedures to facilitate the EAS Inspectorate's awareness of problem businesses identified by the GLA and vice versa.

5. Work of the EAS during the reporting year

The EAS Inspectorate takes a risk-based approach to enforcement, offering advice, supporting business and assisting with compliance but taking firm action, including prosecution or prohibition where necessary against those that mistreat their workers. Where we find any breaches of the legislation, we either decide to issue a warning and follow up to ensure compliance or consider seeking legal action. It is the EAS Inspectorate's experience that, following action by an EAS inspector, the overwhelming majority of agencies found to be in breach of any provisions in the legislation willingly change their working arrangements to ensure they comply with the law.

The EAS Inspectorate shares the industry's commitment to raise standards and much progress has been achieved in recent years. We will continue to work closely with those operating within the industry to encourage continued improvement in standards.

During the period covered by this report, a total of 1,244 complaints were received or initiated, a slight increase on the previous year. This included targeted inspections of entertainment agencies in the Leeds area and the care sector in and around Cardiff.

The number of infringements identified totalled 1,128 as opposed to 1,892 the previous year. We believe the main reason for this significant decrease is due to the fact that as the new Conduct Regulations have bedded in, agencies have become more aware of their legal obligations. This later figure is comparable with earlier years' figures (in 2005-06 the figure was 3,256).

The EAS Inspectorate has a published target of conducting investigations into complaints within 6 weeks of receipt. For 2007 onwards, targets for individual inspectors are based on percentages of cases being cleared within set time limits.

Details of the cases handled by the EAS Inspectorate from 1 April 2007 to 31 March 2008 are set out at the back of the report:

- Annex A – chart of case statistics
- Annex B – complaints and inspections carried out by industrial sector
- Annex C – infringements found by industrial sector
- Annex D – % comparison of complaints and inspections carried out by industrial areas between 2007-08 and 2006-07
- Annex E – % comparison of infringements found by industrial areas between 2007-08 and 2006-07
- Annex F - Comparison of complaints and infringements by industrial sector from 1 April 2007 to 31 March 2008

These show that the main sectors where the inspectors are involved continue to be:

- Entertainment and modelling (taken together) – 19% of complaints and inspections, and 26% of infringements;
- Industrial/construction /drivers (agricultural workers) – 23% of complaints and inspections, and 28% of infringements;
- Secretarial/admin (i.e. all office-based work) – 17% of complaints and inspections, and 10% of infringements.

EAS Inspectorate enforcement strategy

As noted in Section 2, the number of EAS inspectors has been doubled (from 12 to 24). There are three likely areas of work that will grow as a result of the increase in the number of inspectors:

Targeted inspections

These will form a greater proportion of the EAS Inspectorate's work. We plan to develop a more sophisticated evidence-based approach to setting targets on the basis of risk and ordering priorities. An improved system to exchange information with other enforcement bodies, subject to existing legal constraints on disclosure of information, will help with this process. We have already started to deploy the expanded team on a series of monthly large-scale investigations (including a recent investigation of 18 agencies in the Corby area in October 2008, 22 agencies were identified and 18 agencies were inspected in the Plymouth area in November). A large-scale national construction investigation was carried out in early December

Increase in prosecution/prohibition work

This element of the work is already increasing (see Section 6 below). Once the new inspectors are trained in prosecution and prohibition techniques, it will enable the EAS Inspectorate to devote more effort to prosecutions and

seeking prohibitions of those unsuitable to run agencies by virtue of their record of misconduct.

Closer working with other enforcement bodies

This will also help the EAS Inspectorate to identify those disreputable agencies that seek to operate 'below the radar'. It is likely to involve an increase in work with trusted intermediaries both to obtain information about such agencies and to establish trust to encourage complaints from vulnerable agency workers.

The GLA and the EAS will work closely together to share information about non-compliant or suspect businesses operating across their prospective sectors, and in circumstances where there is evidence that a labour provider may be moving out of a licensed sector into a regulated by EAS.

Both the GLA and the EAS will undergo Hampton Implementation Reviews within the next year which will provide a fuller opportunity to look at their regulatory effectiveness, including whether the GLA and EAS need access to administrative sanctions such as "comply or stop now" orders or on spot fines which can be applied with immediate effect.

Employment Act – EAS Penalties and Enforcement

The Employment Act 2008 will strengthen the penalties regime for offences committed against employment agency legislation and give clearer investigative powers for the EAS Inspectorate. This follows a consultation on proposals to strengthen the penalties regime for offences committed against employment agency legislation and clearer investigative powers for the EAS Inspectorate. The Government's consultation on these proposals closed on 8 August and the response was published in December 2007. The consultation paper and Government response are available at <http://www.berr.gov.uk/files/file39439.pdf> and <http://www.berr.gov.uk/files/file42606.pdf>

We have sought views on the criminal offences under the 1973 Act; whether serious cases should be capable of being tried in a Crown Court and, whether such cases, should carry a maximum penalty of an unlimited fine. The consultation document also sought comments on whether the Inspectorate should be given clearer investigative powers in order to obtain financial information regarding those suspected of offences under the 1973 Act.

The measures in the Act will reduce the EAS Inspectorate's dependence on witnesses prepared to stand up in court in order to achieve a conviction. Witnesses can be reluctant to give evidence due to fears of intimidation or being seen as a trouble-maker. Making offences triable either way will enable the EAS Inspectorate to bring charges of 'attempting to' commit offences. In addition, the Act will enable EAS inspectors to take away documents for copying. The clarification of the EAS Inspectorate's investigative powers will enable EAS inspectors to require banks to supply financial records of agencies where the agency has been given written notice to supply the record and has failed to comply. This will assist the EAS inspectors in establishing

the extent and scale of illegal practices. In a number of cases, the EAS Inspectorate may only have received complaints from or regarding a few workers. It may well be that there are a significant number of other workers affected.

Reputable agencies will not be affected by these proposals, except to the extent that they will benefit from more effective enforcement actions against rogue agencies that act to the detriment of the reputable majority. The new powers will benefit the law-abiding majority of agencies by making the EAS better equipped to deal with the small minority who deliberately seek to break the law and provide unfair competition to other agencies as well as mistreat their workers.

Vulnerable Workers Enforcement Forum

The Vulnerable Workers Enforcement Forum, chaired by Pat McFadden, BERR's Employment Relation Minister was launched in June 2007. It brought together unions, advice and enforcement bodies, including the EAS Inspectorate, the CBI and other business groups to look at the extent of abuse basic employment rights in the UK labour market and to identify possible improvements to the current enforcement regime. The Forum's final report was published on 5 August 2008 along with the government's conclusions on the issues raised in the report which is included a package of actions to improve enforcement and compliance. The Report can be accessed at <http://www.berr.gov.uk/files/file47317.pdf>

The Forum has provided useful opportunities to raise the profile of the EAS Inspectorate and what it can do with important stakeholder groups.

Raising the profile of the EAS Inspectorate

The EAS is undertaking a sustained publicity programme in effort to reach vulnerable agency workers and raising the profile of the EAS inspectorate. The Fair Employment Enforcement Board (FEED) met on 5 November. The Board brings together government enforcement bodies, unions, business leaders, and Citizens Advice and oversee a significant and sustained campaign to raise worker's awareness of their employment rights. An information booklet "Agency Workers: Know Your Rights" has been made available to vulnerable and advice bodies, and is also available from http://www.direct.gov.uk/en/Employment/Employees/Typesofworkoremployment/DG_10027514.

The other key element of the campaign will be the launch of a single enforcement helpline, an enhanced basic rights section on <http://www.direct.gov.uk/en/index.htm>.

As a part of profile raising activity the EAS inspectors engage with stakeholders by speaking at or participating in industry events in their regions. EAS also offers to hold events for trade associations as a part of communication route for raising awareness of agency regulation and for increasing compliance.

Vulnerable Workers Pilots

BERR has also committed £800,000 to two Vulnerable Worker Pilots in London and Birmingham. The pilots are testing different ways of providing support for vulnerable workers and their employers at local level, and will contribute to the evidence base on vulnerable employment. They conclude next year. The London pilot is being run by the TUC and is focused on the building services industry in east London. The pilot has several partnership groups and the EAS Inspectorate is currently participating in the Employment Standards group where the focus is on building effective communication pathways between statutory agencies, organisations and trade unions working with vulnerable workers and educating employers to comply with the legislation.

6. Prosecutions and prohibition cases

We do not hesitate to prosecute where this is appropriate, but we only take this action where other routes to compliance have failed or are clearly not appropriate. In the overwhelming majority of cases where our inspectors discover breaches in the legislation they find that, when made aware of these infringements, companies agree to change their procedures and/or pay any money owed to a worker. During this reporting year EAS undertook 1,494 inspections/investigations of agencies and recovered over £26,000 of workers' wages that were illegally withheld. It is unlikely that the workers would have recovered the money by other means. Since the end of this reporting period EAS inspectors have been successful in recovering £21,904 of worker's wages that were illegally withheld by agencies.

Below are some examples which would give you some idea how EAS Inspector's direct invention helped workers to get the money which they were legally owed by the agencies:

An agency (already known to EAS) was refusing to pay two Polish workers for work they had done by the existing bank transfer arrangements, but was insisting that the wages were only available for collection at the office in cash. The Agency said that it had decided to do this to force the workers to come into the office to fill in Workers Registration Forms which they did not do.

When the workers returned to Poland, the Agency was still refusing to transfer their wages to their bank accounts, continuing to insist that the money was available in cash at the office. Following the Inspector's visit to the Agency; the wages over £1,358 owing were transferred in full to the workers' bank accounts.

An Eastern European worker working at the airport had left the agency because they were not sympathetic when she was ill and threatened her if she did not go to work.

She was due an outstanding £1,010 for hours she had worked when she left and this was not forthcoming when she asked to be paid.

When EAS contacted we were told that the money was ready and waiting but they wanted the return of the worker's pass and uniform. The worker claimed that this was never given to them as the reason for non-payment.

Within 3 days of EAS intervention in October this year the worker called to say that they had returned the items and received the £1,010 due.

A number of cases were taken forward for either prosecution or prohibition during the year of the report. In April 2007, two bosses of a hauling driving agency were prohibited from running an agency for 10 years and 5 years respectively following conviction of failing to ensure the safety of persons not in their employment, after it was shown that they allowed drivers to grossly exceed their permitted hours without rest. A driver working through the agency collided with another lorry driver. Both drivers were killed.

An owner of another driving agency was prohibited from running or being associated with running an agency in May 2007. He was previously convicted of manslaughter for coercing his drivers to work excessive hours. The Employment Tribunal imposed a prohibition order of 10 years. A driver had fallen asleep at the wheel and hit and killed a cyclist.

A former model agency owner, who served a jail term for rape, on release under licence, was prohibited by an Employment Tribunal for 10 years in October 2007. The individual's wife was also prohibited from running an agency from their home address and from enabling any other person to do so. This was an additional precaution as without prohibiting the wife, any ban against the former owner would have risked being ineffective.

A model agent was prosecuted in August 2007 for non-payment of wages to four models and other charges and was fined a total of £2,695 in compensation and court costs.

An employment agent was prosecuted in March 2008 for advertising vacancies with hirers without the permission or authority from those hirers. It followed that this agent had not issued terms to hirers or obtained details about hirer or the vacancies. The agent had ceased trading and pleaded guilty to all charges. The agent was sentenced to 12 months conditional discharge.

Two other cases were brought by EAS during the period of this report which resulted in Court hearings. One involved a model agency charging assessment fees to work-seekers. The other case involved a company

bringing in workers from overseas to work in hotels and charging the workers fees for this service. In both cases, the Courts did not agree with the evidence that the Department put forward and found in favour of the defendants. Although these two investigations were case specific, Government has taken into consideration the Courts' rulings and the application of the Employment Agencies Act 1973. Where necessary, EAS will seek to address any misinterpretation of the legislation by reviewing the legislation and/or guidance.

Case where prosecution or prohibition was considered but proceedings not commenced

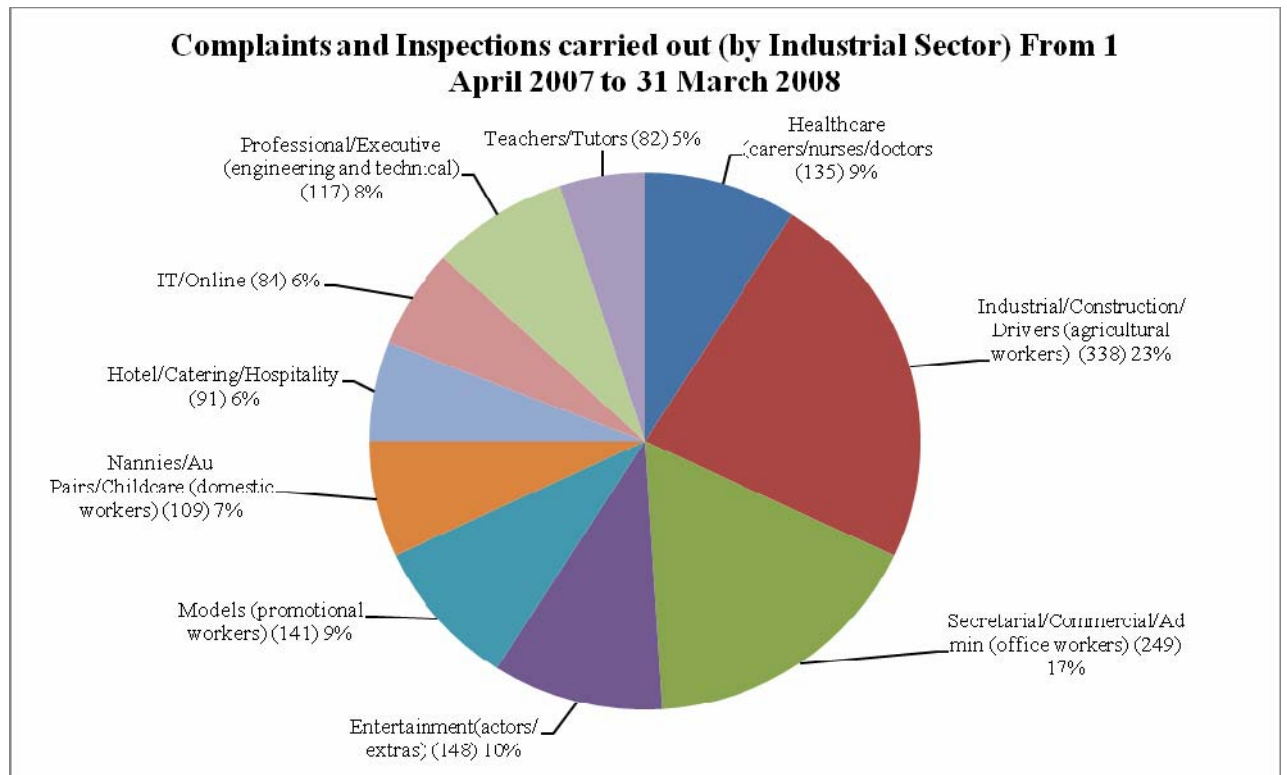
Around 12 other cases were investigated during the period of this report with a view to considering either prosecution or prohibition proceedings against the relevant agencies. Some of these investigations involved non payment of wages to work-seekers and in a number of instances, due to the weight of the EAS investigation and warning letters, the work-seekers obtained a payment from the relevant agency. A number of other cases have been put forward for legal proceedings to be brought against each agency and these cases are currently pending.

7. EAS Inspectorate case statistics April 2005 to March 2006, April 2006 to March 2007 and April 2007 to March 2008

Annex A – chart of case statistics

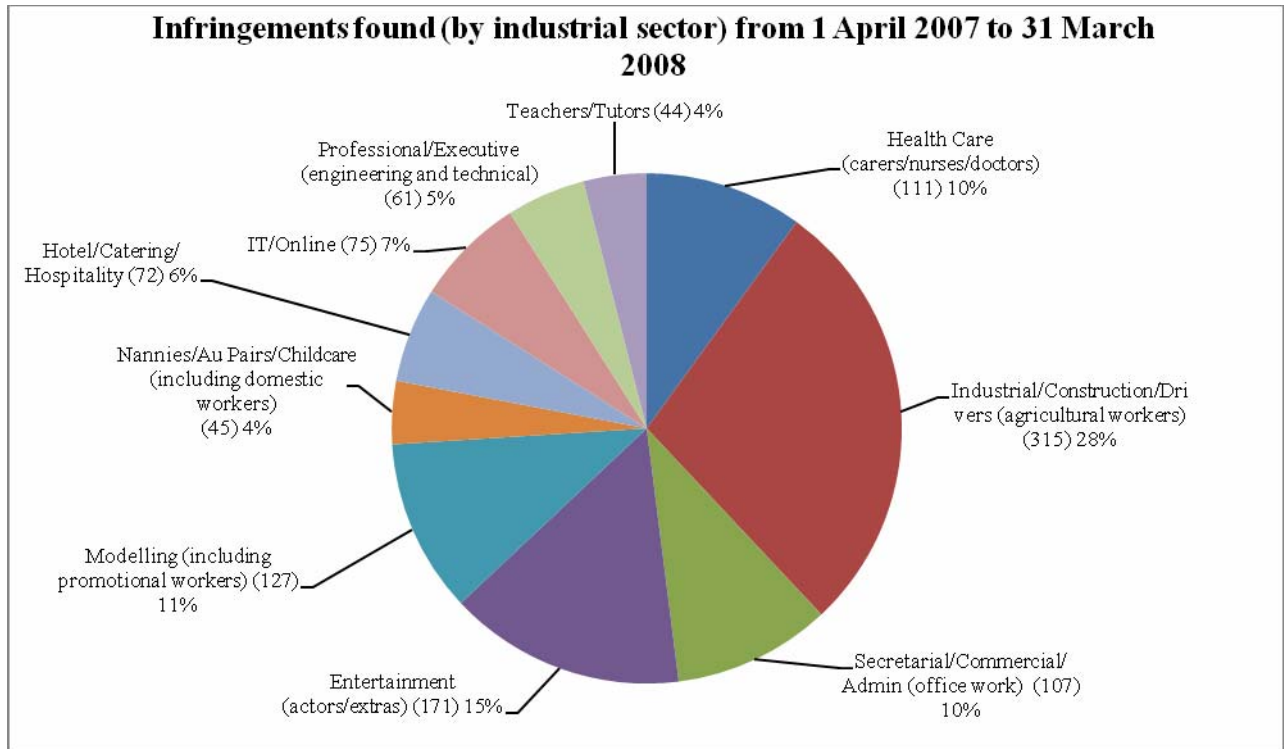
<u>Investigations</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>
Complaints received or initiated	1,097	1,103	1,244
Complaint cases cleared	1,112	1,302	<u>1,273</u>
Cases found as out of scope of the 1973 Act	372	452	516
Cases found as substantiated	276	384	292
Cases found as unsubstantiated	464	466	465
Cases still in progress	483	291	299
Targeted inspections/follow up inspections	375	330	221
Total infringements found on all cases	3,256	1,892	1,128
Warning letters sent	659	558	518
Total cases (complaints and inspections) handled	1,487	1,632	1,494

Annex B – complaints and inspections carried out by industrial sector



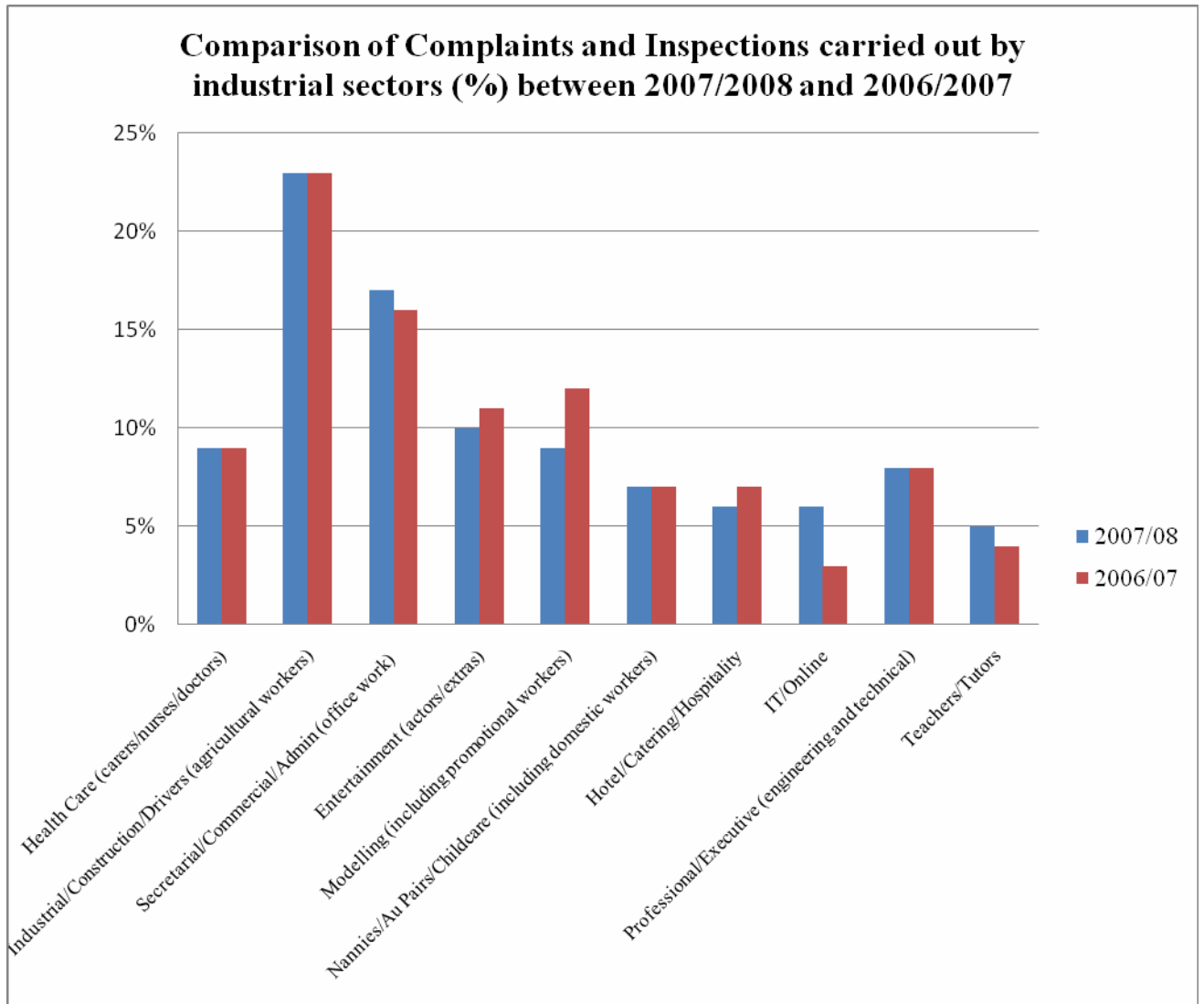
Note: EAS remit ceased to cover agricultural workers from 1 October 2006

Annex C – infringements found by industrial sector

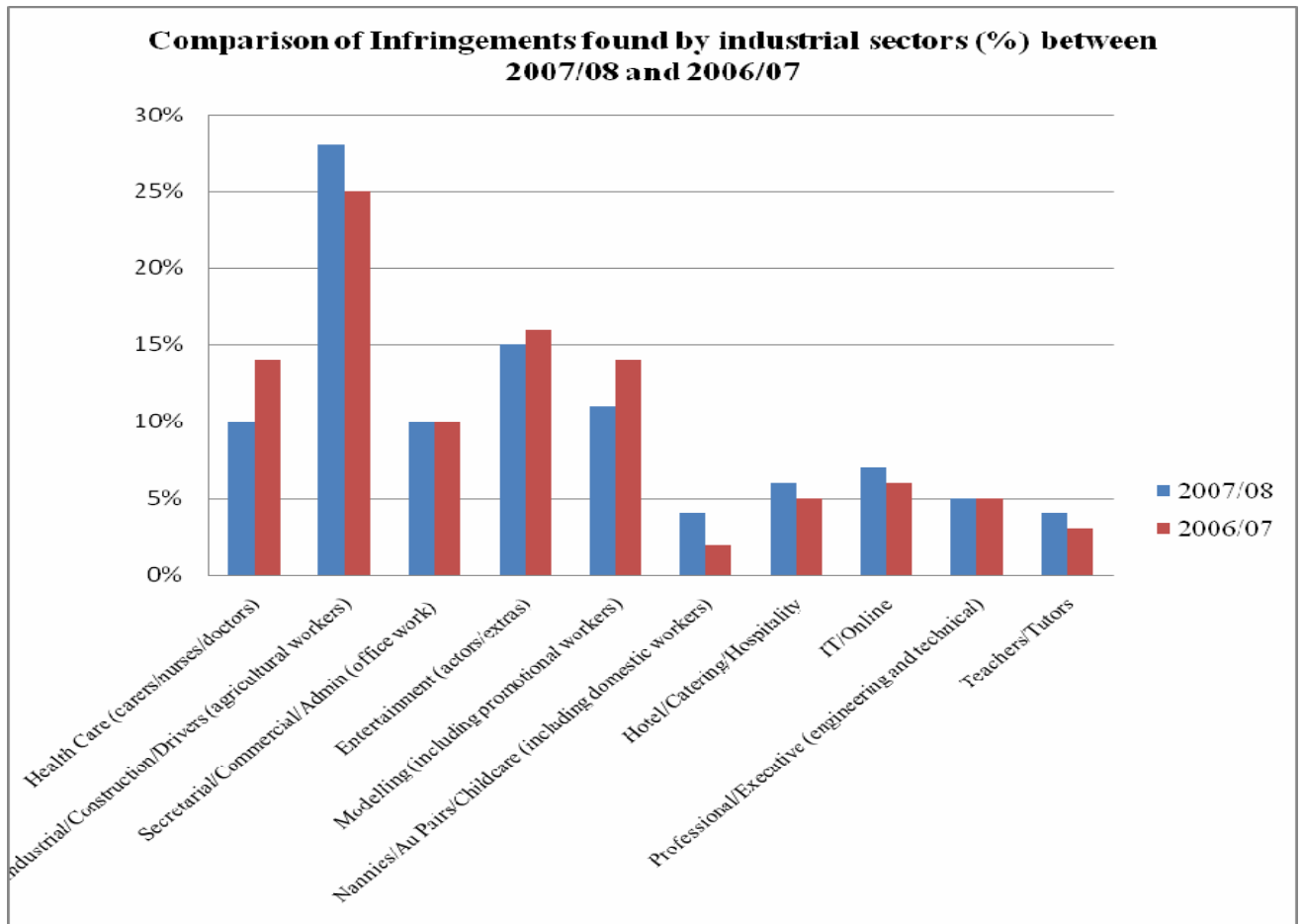


Note: EAS remit ceased to cover agricultural workers from 1 October 2006

Annex D – % comparison of complaints and inspections carried out by industrial areas between 2007-08 and 2006-07

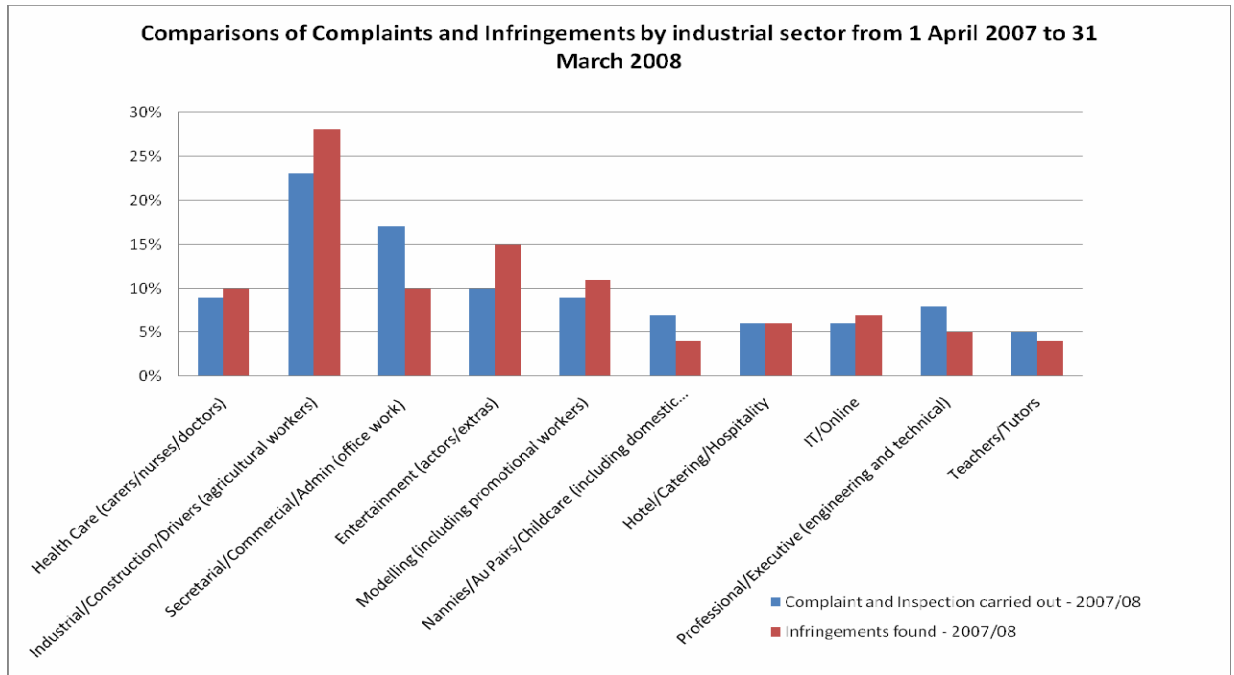


Annex E – % comparison of infringements found by industrial areas between 2007-08 and 2006-07



Note: EAS remit ceased to cover agricultural workers from 1 October 2006

Annex F - Comparison of complaints and infringements by industrial sector from 1 April 2007 to 31 March 2008



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