

BERR

Department for Business
Enterprise & Regulatory Reform

Employment Agency Standards
Inspectorate

General enforcement and procedural
guidance

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Employment Agency Standards Inspectorate – general enforcement and procedural guidance

Introduction

1. The purpose of this guidance is to assist Employment Agency Standards (EAS) Inspectors in carrying out inspections of employment agencies records and investigating complaints relating to the conduct of employment agencies. The Employment Agencies Act 1973 and supporting regulations require all employment agencies and employment businesses to abide by specified laws. The Inspectorate's aim is to ensure compliance with the employment agency legislation and in particular to ensure that agency workers receive their employment rights and entitlements.

Enforcement powers

2. Inspectors should use their powers of enforcement sensibly. The aim, usually, should be to secure compliance with the legislation and encourage good practice.
3. However, the possibility of prosecution and/or prohibition should always be borne in mind, particularly where serious infringements of the legislation have occurred; or where the infringements are systematic within the operation of the employment agency; and regardless of whether or not the matter has previously been brought to the attention of the agency.
4. The attitude of the agent towards compliance should be taken into account in considering whether or not criminal proceedings are an appropriate course of action.
5. Section 9(1) of the Employment Agencies Act 1973 (as amended) provides that Inspectors can visit the premises of an agency, in connection with an inspection or investigation, at all reasonable times by an officer duly

authorised by the Secretary of State. Furthermore, any obstruction of an officer carrying out these functions is a criminal offence.

6. Section 9 also sets out the circumstances under which an Inspector may enter premises, inspect records and take copies of such records and other documents, and from whom he may reasonably obtain information.
7. From April 2009, Inspectors will no longer need to rely on the agency's copying facilities (at the premises being visited) as there will be a new power to remove any related documents for the purpose of taking a copies of such documents and returning them to the agency. Any documents that are removed during an inspection must be included in a record prepared by the Inspector (see example at Annex 1: Record for documents removed from agency). The record must be agreed and signed by both the Inspector and the agency representative, ensuring that the agency is aware of which documents are being removed. Any documents that are removed from an agency's premises by an Inspector for copying must be returned to the appropriate agency within seven working days.
8. Where the Inspector is carrying out an in depth investigation or the case involves obtaining a high volume of documents from an agency which need to be removed and copied by the Inspector, the Inspector should seek advice from line management and either re-visit the agency or plan a visit with another Inspector or line management to record the documents being removed from the agency premises.
9. In cases where Inspectors are making enquiries with an agency (i.e. asking questions or obtaining documents) as a consequence of telephone calls or letters to the agency, the exercising of their powers under section 9 powers generally still apply.
10. Any information obtained by an Inspector in the course of exercising their enforcement powers (including powers as set out in paragraph 7) may only be

disclosed in specified circumstances. If in doubt Inspectors should refer to section 9(4) and consult line management.

11. It is an offence under section 9(3) for a person to obstruct an Inspector in the exercise of his or her powers.
12. Inspectors should not use forcible entry or demand that a search be carried out. In order to prove a charge of obstruction, it is necessary to show that on the day in question, the Inspector:
 - a. had reasonable cause to believe that the premises had been or are being used for, or in connection with, the carrying on of an employment agency and/or employment business
 - b. called at the premises of the employment agency and/or employment business
 - c. read over to the agent the authority under section 9(1) as amended for:
 - i. entering the premises
 - ii. inspecting those premises and any records and other documents kept in pursuance of the Act and Regulations
 - iii. taking records or copies of them and other documents inspected under (ii)
 - iv. requiring a person to furnish information except when this would incriminate either himself/herself or his or her wife/husband
 - v. can identify the person who obstructed him/her
13. When it is anticipated that an agent may be unco-operative and obstructive, the Inspector should contact the agent and make a convenient appointment to visit him. If appropriate the agent should be advised of the powers of section 9 verbally and followed up formally in writing prior to the visit. An example

section 9 letter is at Annex 5: Section 9 warning letter to agencies. If the agent remains un-cooperative the Inspector should visit the premises accompanied by another Inspector or line management.

14. If the agent remains obstructive at the visit, the agent should be asked if he or she will allow the Inspector to carry out their duties. In this respect, separate questions should be put to the agent; he or she should be asked if they will allow access to the premises, they should then be asked if they will allow access to the records.

15. If the agent refuses entry or access to the records the Inspector should issue a formal caution (in accordance with the Police and Criminal Evidence Act 1984). The questions about entry to the premises and access should be put to the agent again and a verbatim record should be kept of the questions asked and the responses of the agent. Following the visit a report should be prepared and submitted to lawyers to consider whether criminal proceedings should be instigated.

16. From April 2009, Inspectors will be able (in addition to inspecting records kept in pursuance of the Employment Agencies Act 1973) to inspect financial records and other financial documents on the agency premises. If the financial records are not held on the agency premises another new power (from April 2009) will enable Inspectors, on written notice, to require a bank to furnish the financial record or document where the person carrying on the employment agency has failed to comply with a request in writing to do so. Before considering this course of action, Inspectors must seek further advice from line management.

Programme of visits

17. All types of visits (e.g. investigation of complaints and inspections) should where appropriate be planned by Inspectors utilising their time management skills and making sure they take the most cost effective route.

18. Itineraries should be drawn up as appointments are made, by using the calendar in Microsoft Outlook. This will enable all EAS staff to be aware of each Inspector's movements during the working week.
19. It is essential that Inspectors maintain an updated calendar in order that it can be used as an effective management information tool, as well ensuring that management is aware of each Inspector's planned travel arrangements from a health and safety viewpoint.
20. Prior to any investigation or inspection visit Inspectors should carry out some research on the agency and areas to be visited and refer to the EAS health and safety risk assessment method statement.

Inspections

21. Generally, Area Inspectors will agree with Regional Inspectors if inspections of employment agencies and/or employment businesses in that Regional Inspectors allocated geographical area are necessary. Depending on the level of reactive complaint investigations in a particular Inspector area, Inspectors may need to maintain a consistent case load by carrying out proactive inspections. These inspections should be identified on a risk based approach or as an awareness raising task in a specific area or as training and developmental need for the individual Inspector.
22. Based on intelligence received from calls to the EAS Helpline or from other sources (including internal information obtained from Inspectors in their own areas) EAS Management hold regular intelligence meetings and will plan monthly targeted inspections by either sector or region. These targeted inspections will form the on going inspection strategy for EAS.
23. Agencies which are found to be in breach of the legislation may need to be considered for a follow up action to obtain full compliance. This will depend on several factors, including the type and/or number of infringements identified

and the general attitude of the agency. Ideally, if a follow up visit is deemed necessary, this should take place between 3 to 6 months following the previous visit, depending on the seriousness of the infringements that have been identified. If in doubt, the Inspectors should discuss the planned follow up action with line management. The Inspector should maintain a record of when the next visit is due and carry it out accordingly.

Action to be taken during visit to an agency

24. When carrying out an inspection, Inspectors should complete an appropriate aide-memoire. Samples can be found at Annex 2: Inspection Aide - memoire for entertainment and model agencies (for entertainment and modelling agencies) and Annex 3: Inspection Aide Memoire (general) for all other agencies. The Inspector should ensure that he or she obtains the necessary documentation (which will depend on the nature of the visit and agency type) and to check that it is consistent with the law.

25. Inspectors should obtain examples of the agency's terms and conditions to work seekers and the terms of business that they supply to hirers. Where appropriate the Inspector should also obtain documents which refer to any fees or charges being charged by agencies to work-seekers. (See paragraph 55 for the recommend content of case files). Where both employment agency and employment business activity is being conducted, the Inspector should inspect records of 2 examples of each type of placement (employment agency 'EA' and employment business 'EB') and the details noted appropriately on the aide-memoire.

26. In cases where only one type of activity is being carried out, the Inspector should look at the documents of 4 examples of placements, and again, note the aide-memoire. If, however, the Inspector finds that the agency is very well run and the records are in good order, he/she may use his discretion and look at fewer placements. Equally, if the standards are poor, or there appears to

be a systematic disregard of the requirements of the employment agency legislation, the Inspector may need to examine and obtain further records.

Infringements of the Act and Regulations

27. Where infringements are found, the Inspector should draw the agency's attention to them and issue corrective advice. It is not the Inspector's responsibility to provide legal advice but to explain what the law requires as set out in the regulations or in guidance. The infringements found should be confirmed in writing by sending a warning letter to the agency (within 5 working days of the inspection visit). The agency must be asked to confirm in writing the remedial action they intend to take against each infringement identified. See Annex 6.
28. If during the visit the agency has taken immediate corrective action, and the Inspector is satisfied that no other infringements exist, there is still a requirement to issue a warning letter but a written response from the agency will not be necessary.
29. When serious infringements are found, criminal proceedings should be considered, as a possible course of action. In such cases, the Inspector should obtain details of workers or hirers affected by the breaches of the legislation and example documentation to support these breaches. The Inspector may also need to follow up or make further enquiries with work-seekers and/or hirers to gather evidence. Before embarking on such an investigation Inspectors should seek further advice from line management on the course of action to take.
30. Line management will seek further advice from BERR lawyers and if a prosecution is a possible option Inspectors will be informed accordingly. In addition to a request from lawyers for further investigation Inspectors should refer to the EAS Prosecution Guide before embarking on criminal investigation. The Prosecution Guide is designed to assist Inspectors in the

collection of evidence, interviewing witness, taking statements and conducted interviews under caution.

Inspectors report

31. Following a visit to an agency, the Inspector should, within the following 5 working days, compile a report setting out the full name(s) of the person(s) seen, the name and address of the agency, the nature of any infringements, attitude of the agency, the action taken and any recommendation for a further inspection to be carried out within a specified interval. If in doubt about the preparation of an investigation report the Inspector can seek further advice from their Area Inspector and request examples of previous reports compiled by experienced Inspectors.
32. The Inspector's report does not have to repeat information that is already set out in the warning letter that is sent to the agency.
33. It is important that Inspectors maintain all handwritten notes or aide memoirs that they complete during an inspection. If criminal proceedings are subsequently pursued, the evidence that is submitted to lawyers might have to refer to the Inspectors previous visits to the agency. To comply with the provisions of Criminal Procedure and Investigations Act 1997, the investigation authority must keep all documents produced or prepared during an investigation. Hand written notes and aide memoirs that are completed during an inspection or investigation are deemed as 'unused material'. In any criminal proceedings, all unused material has to be listed on a schedule and submitted with the case papers to lawyers. The schedule may (at the appropriate stage of proceedings brought by EAS) be made available to the defendant or his or her solicitors, so that they are made aware of all material that has been gathered during an investigation.
34. In some cases, an Inspector might need to seek further advice from line management or obtain legal advice before preparing a warning letter to the

agency. In such cases, the Inspector should send a holding letter to the agent advising them of the position.

Monitoring response to warning letter

35. It is the Inspector's responsibility to obtain a satisfactory reply to any warning letter issued. EAS Admin can assist Inspectors in setting up a brought-forward (B/F) system to ensure that cases are not overlooked. Area Inspectors can also use the system to monitor the caseloads and status of investigations.

36. If an agency does not reply to a warning letter, or to a subsequent reminder letter (Annex 7: Reminder letter seeking agencies response), Inspectors should contact the agency to secure a written response or, if necessary visit the agency, to check if remedial action has been taken.

Completion of inspection file

37. Once an inspection case is fully completed, the Inspector must arrange for any documents obtained during the investigation, as well as their emails, reports, warning letters to agencies etc to be scanned into the appropriate Matrix file. If the Inspectors have difficulty in scanning certain documents they can seek the assistance of the EAS Admin team. See paragraph 55 for the recommend content of case files.

Complaint investigation

38. A complaint is any statement or information, whether given orally or made in writing from a person who is aggrieved or dissatisfied with the treatment they have received from an agency or where that person has concerns about the conduct of that agency. The complaint can relate to matters either within, or outside, the scope of the employment agency legislation.

39. Complaints can be received from various sources (e.g. direct from work-seekers or hirers, channelled through MP's, trade unions or trade

associations, through articles in the press, from other enforcement bodies, Citizens Advice Bureau (CAB's), etc).

40. On receipt of the complaint, it will be registered and assessed as to whether the matter is one that can be dealt with under the employment agency legislation. The first stage in the process will be handled by EAS Admin officers and Area Inspectors. In cases where the complaint is outside the scope of the legislation, EAS/head office (HO) will write accordingly to the complainant and where possible indicate where that complainant can obtain assistance or information about their complaint.
41. Even if a complaint is outside the scope of the legislation, a visit to the agency to inspect records might still be warranted to ensure full compliance with the legislation.
42. In some cases, Inspectors might be contacted directly by complainants or receive complaints when they are visiting agencies or attending a stakeholder event. Whether or not a complaint is about an agency within the Inspector's own geographical area, they should send details of the complaint to HO or suggest that the complainant writes or emails the complaint to HO. This is necessary for the complaint database to be updated and a case file raised, as well as for intelligence gathering purposes and so that Area Inspectors can effectively monitor consistent caseloads throughout the Inspectorate.
43. EAS may receive complaints from hirers where there is disagreement over the terms of business or their application. Provided the provisions of the Conduct Regulations have not been contravened, the complaint should be treated as a contractual matter, to be resolved between the respective parties and on which they should seek their own legal advice.
44. Similarly, providing that the provisions of Regulations relating to the terms agreed with work-seekers have been met, complaints arising from contracts entered into between agencies and work-seekers, are matters that should be

resolved by the parties concerned and on which they can take their own legal advice.

Other legislation

45. The provisions of the Working Time Regulations 1998 (WTR) cover holiday pay and hours of work. Although agency workers are covered by WTR, it is not the Inspectorate's role to enforce these protections. HSE are responsible for dealing with matters relating to working hours. If agency workers complain that they are not receiving their holiday pay entitlements under WTR, they should be advised to either contact their local Acas office, or seek legal advice from their local Citizens Advice Bureau or Law Centre.

46. Similarly, issues relating to the National Minimum Wage (NMW) are not covered by employment agency legislation. Complainants should be referred to the NMW Helpline, Acas or CAB.

47. Further information about work-seekers' rights can be accessed from www.direct.gov.uk and further information is available for hirers at www.businesslink.gov.uk

Allocation of complaints

48. Casework will be allocated to Inspectors, normally according to the geographical area that they cover. However, due to Inspector caseloads and their availability, case work might from time to time be sent to other Inspectors to investigate.

Initial points to consider

49. Where there is a complaint for investigation, the Inspector should, on the information to hand at that time, carefully consider the nature of any alleged infringements of the legislation that may have occurred and what evidence is needed to support the complaint (e.g. relevant documents such as terms to work-seekers or hirers or other written documents or correspondence).

50. At the outset of any investigation the Inspector should satisfy themselves about the scope position. In particular, whether or not the services are covered by the definitions of EA or EB activity, as set out in section 13(2) and section 13(3) of the Employment Agencies Act 1973.
51. If the activity is within scope of the legislation and initial evidence shows serious breaches, the Inspector should consult with his or her Line Manager and, if appropriate, commence gathering evidence with a view to considering criminal proceedings. The EAS Prosecution Guide should be referred to before embarking on any proceedings.
52. Inspectors should establish whether the worker or complainant is prepared for their details to be disclosed during any investigation carried out by EAS. Where complaints are made to EAS by a third party (e.g. from an MP, from a trade, employer or worker association, or friends or relatives) the Inspector should obtain permission direct from the complainant that they are content for an investigation to take place on their behalf and for their name to be disclosed.

Timing of investigations

53. EAS aims to complete investigations within 6 weeks from the date of receipt of a complaint.
54. If an Inspector is unable to complete an investigation within 6 weeks of the complaint being received, they must contact the complainant, before the end of the 6-week period. They must inform them of the reason for any delay and where possible explain what action has been taken so far. Inspectors should note file papers accordingly as to when and how contact was made with the complainant. It is not necessary for all contact with the complainant to be in writing (but it is preferable) and where the Inspector has telephone or face to face conversations with the complainant, a written record of such conversations need to be maintained and stored on the appropriate file.

55. For information on (a) the action to be taken by Inspectors when carrying out an investigation visit to an agency, (b) identifying infringements to the legislation, (c) the production of Inspector reports and (d) monitoring the response to warning letters – please refer to paragraphs 21 to 37.

Content of Case File

56. When an investigation has been concluded, the Inspector, Area Inspector and HO staff must ensure that each case file contains the following (where appropriate):

- record of complaint from complainant/completed complaint form including any supporting documentation supplied by the complainant
- acknowledgement letter/email to complainant from EAS
- investigation instructions or advice to Inspectors
- 6 week letter to complainant (if applicable)
- record of any phone calls to complainant/agency or others relating to the case
- example terms and conditions to workers collected at visit to agency
- example terms to hirers collected at visit to agency
- any other relevant documentation obtained from agency (e.g. charges made to work-seekers or documents showing compliance with the legislation)
- aide memoire and/or notes taken at agency visit by the Inspector;
- investigation/inspection report
- letter to complainant notifying the outcome of investigation;

- warning letter
- reminder warning letter (if applicable)
- agency's reply to warning letter
- completed control sheet (completed by Inspectors)

57. It is important that Inspectors should note every contact with the agency, complainants and other contacts relating to the investigation. They should keep the completed record for the case file.

And finally

58. If Inspectors are having difficulty in dealing with casework or their caseload is at an unmanageable level, they should contact their Line Manager immediately to discuss options.

Annex 1: Record for documents removed from agency

Name of Agency:

Date of visit:

Address:

Documents being removed from the agency premises to be copied for EAS purposes

Description of document or record

Name of Inspector:

Signature:

Name of agency representative:

Signature:

The above documents will be returned within the next 7 days. If are not returned please contact the Inspector on telephone number or contact the Head Office of Employment Agency Standards Inspectorate (08459 555105)

Documents returned on:

Inspector (name and signature):

Agency representative (name and signature):

Annex 2: Inspection Aide - memoire for entertainment and model agencies

Name of agency & YCF:

Agency address:

Agency phone number:

Person seen:

Reason for visit: C I B Other:

Date:

About the agency:

Type of supply:	Model	Extra	Actors	Other:
Business activities:	EA		EB	Both
Services provided:	Photographs		Yes/no	Fee:
	Book		Yes/no	Fee:
	Website		Yes/no	Fee:
	Model cards		Yes/no	Fee:
	Bikes/couriers		Yes/no	Fee:
Are these services conditional? (reg 5)			Yes	No
Services notified as required by? Reg 13			Yes	No
Are Agv charging worker or hire?			Worker	Hirer
What is the rate of commission?			33.3%	66.6%
Is book/website the only work-finding service?			Yes	No
Is book fee reasonable?			Yes	No
Does worker have site of book/site before charge?			Yes	No

Terms to hirers check: reg 17

Disclosure	EA/EB	No
Details of fees	Yes	No
Details of refunds	Yes	No
Authority to Act for Hirer (reg 11)	Yes	No

Terms to worker-seekers: reg 14 & 16

Disclosure	EA/EB	No
Type of work sought	Yes	No
Work finding service detailed	Yes	No
Authority to act for worker (reg 11)	Yes	No
Authorised to receive worker's money	Yes	No
Details of fees	Yes	No
Worker required to give notice	Yes	No
Agy required to give notice	Yes	No

Notes:

Name & a/c no of client a/c

Question				
Is agency permitted to receive money on workers behalf?	Yes		No	
Does the client Account have 'client' title of the a/c	Yes		No	
What monies are paid into the client account?				
Are fees deducted before being paid into C/Acc?	Yes		No	
How does agency pay workers?	Cash	Cheque	Internet Banking	BACS
How is agency paid by hirers?	Cash	Cheque	Internet Banking	BACS
Does agency have accounts relating to client account?	Yes		No	
Client account audited by independent accountant	Date:			

Placement checks – the hirer (Schedule 5)

Date booking info received from hirer:		
Hirers name:		
Hirers address:		
Details of booking:		
Duration or likely duration of booking:		
Experience/training required:		
Date agency terms issued to hirer:		
Variation to terms?		
Health and safety information obtained?		
Name of worker/s supplied to hirer:		
Hirer notification in accordance with reg 21?	Yes	No
Date agency invoiced to hirer:		

Placement checks – the W/S & inspection of client account transactions

Example 1

W/S details (name etc):		
Details of job carried out:		
Date agency paid by hirer and method of payment:		
Date W/s money paid into bank account if appl:		
Is this within 2 working days after received date?	Yes	No
Date payment made to the work-seeker & method:		
Payment made to W/S within 10 working days?	Yes	No
Did W/S request in writing agency to hold money?	Yes	No
Has W/S money been retained in excess of 30 days	Yes	No
Money retained 30 days + has statement been issued?	Yes	No
Has W/S been issued with payment information?	Yes	No

Example 2

Date booking info received from hirer:		
Hirers name:		
Hirers address:		
Details of booking		
Duration or likely duration of booking		
Experienced / training required		
Date agency terms Issued to hirer:		
Variation to terms?		
Health and safety information obtained?		
Name of worker/s supplied to hirer:		
Hirer notified in accordance with Reg 21?	Yes	No
Date & fee the agency invoiced hirer:		

Example 3

W/S' details(name etc):		
Details of job carried out:		
Date of job carried out:		
Date agency paid by hirer and method of payment:		
Date W/s money paid into bank account if appl:		
Is this within 2 working days after received date?	Yes	No
Date payment made to the work-seeker & method:		
Payment made to W/S within 10 working days?	Yes	No
Did W/S request in writing agency to hold money?	Yes	No
Has W/S money been retained in excess of 30 days?	Yes	No
Money retained 30 days + has statement been issued?	Yes	No
Has W/S been issued with payment information?	Yes	No

Advertising – regulation 27

Examples of advertising seen?		Yes	No
Is advertising compliant with:	27 (1)	Yes	No
	27 (2)	Yes	No
	27 (3)	Yes	No
Does agency work with other agencies to fulfil booking?			

Annex 3: Inspection Aide Memoire (general)

Inspection Aide-Memoire YCF.....

Trade name(s):	
Address:	
Phone no:	Date:
Person seen and position:	
Activities: Secretarial / commercial – industrial / construction – teaching – catering – childcare – professional – drivers – healthcare – model – entertainment Other type:	
Staffing:	EA, EB or both?
Number of temps:	
Number of perms	
Independent or national?	
HO where?	
REC or other Trade Association member?	Yes/No
More than one agency – Reg 23 requirements?	
EA Paying Agent?	
Are premises suitable	Yes / No (if no why not?)
Do terms to hirers include: (Regs10,17)	
EA - Acting as	Yes / No / Not applicable
EA - Scale of fees	Yes / No / Not applicable
EA - Details of rebates	Yes / No / Not applicable
EB - Acting as	Yes / No / Not applicable
EB - Procedure if temp unsatisfactory	Yes / No / Not applicable
EB - Details of temp to perm fees	Yes / No / Not applicable

EB - Option of extended hire period	Yes / No / Not applicable
EB - Charge fee	Yes / No / Not applicable
EB - Contract of service or services	Yes / No / Not applicable or notified at intro stage (reg 21)
Is there any indication that fees are being charged to workers? If so give full details:	
Accommodation Travel PPE	
CV Composite Pay Company	
Are Services Provided Conditional (Regulation 5)?	
EA Terms (Reg 14)	
EA - acting as agency	Yes/No
EA - type of work	Yes/No
Do terms to work seekers include - Reg 15	
EB - acting as business	Yes/No
EB - type of work	Yes/No
EB - holiday pay/entitlement	Yes/No
EB - contract of service or services	Yes/No
EB - notice period	Yes/No
EB - undertaking to pay work-seeker (whether paid by hirer or not)	Yes/No
EB - remuneration and when it is paid	Yes/No
EB - any detriment to the work seeker (reg 6)	Yes/No
EB - withholding pay (ie time sheet) (reg 12)	Yes/No

Permanent Placements Work-seeker Info Reg 29 Sch 4

Date application received:	
Name:	
Address:	

DOB (if under 22):		
Any terms between work seeker and EA	Date issued:	
	Acting as:	
	Type of work	
	Copy	
Training, experience qualifications etc held CRB Req (including copies)?		
Names of hirers introduced or supplied to		
Engagement?		
Date of effect		
Contract by hirer for work seeker? (Reg11)		
Date application withdrawn or terminated (if applicable)		
Confirmation of identity (Reg 19) - how this was done?		
Enquiries as to suitability (reg 20)		
Professional qualifications registered (or references to work with vulnerable persons (Reg 22))		
Notification to work-seeker at intro or supply stage	Date Intro:	
	Notified Orally/ Verbally	
	Date in writing:	
	Identity of hirer:	Yes/No
	Start date	
	Duration	Yes/No
	Position	Yes/No
	Location	Yes/ No
	Hours exp & reg:	
	Expenses payable:	

SCHEDULE 5 – Records relating to hirers (Regulation 29)

Date appln rec'd:	
Hirer's name:	
Hirer's address:	
Location of work if different from above:	
Nature of business (Reg 18)	
Position req'd:	
Duration or likely duration:	
Experience, training, qualifications etc required by the hirer:	
Expenses payable to or by the work seeker	
EA – rate of pay and notice period (reg 18)	
Copy terms of business + any variation (reg 16&17)	Date of Issue:
	Date of Issue:
	Date of Issue:
Names of work seekers introduced or supplied	
Other legal requirements (Reg 20)	
Record of any checks re unsuitability of work seeker (Reg 22)	
Details of any engagement	
Date of effect	
Details of invoices raised	
Date	
Amount	

Notification as per Regulation 21	Date Intro:	
	Notified Orally/ Verbally	
	Date in writing:	
	Identity of WS:	Yes/No
	Exp & Req Quals:	
	Start Date:	
	Does 21(3) apply?	
	Willing to undertake Job:	

SCHEDULE 6 – Details relating to other Agencies

Names of other agencies or businesses used:	
Details of enquiries made regarding suitability:	
Copies of documents relating to enquiries that have been made:	

Advertisements – Regulation 27

What type of advertising is used?	
Do advertisements include full name of the EA/EB?	Yes/no
Do advertisements include disclosure?	Yes/no
Does the agency have information about specific jobs they are advertising?	Yes/no

Does the agency have authority from hirer?	Yes/no
If rates of pay are quoted does the advertisement include the nature of the work, the location, and minimum experience training or qualification?	Yes/no

Temporary Placements Work-seeker Info Reg 29 Sch 4

Date application rec'd		
Name		
Address		
DOB (if under 22)		
Any terms between work seeker and EB	Type of work:	
	Contractual status:	
	Date issued:	
	Acting as:	
	Under taking to pay:	
	Notice:	
	Rate or min rate:	
	Payment intervals:	
	A/L ent:	
	Copy:	
Training, experience qualifications etc. held CRB Req? (Including copies)		
Specific requirements by work seeker		
Names of hirers introduced or supplied to		
Engagement (& date of effect)		
Contract by hirer for work seeker? (Reg11)		
Date application withdrawn or terminated (if applicable)		

Confirmation of identity (Reg 19) & how this was done		
Enquiries as to suitability (reg 20)		
Professional qualifications req'd or references to work with vulnerable persons (Reg 22)		
Notification to work-seeker at intro or supply Stage	Date Intro:	
	Notified Orally/ verbally	
	Date in writing:	
	Identity of Hirer:	Yes/no
	Start Date:	
	Duration:	Yes/no
	Position:	Yes/no
	Location:	Yes/no
	Hours:	
	Exp & Req:	
	Expenses payable:	
	HSE issues	
	Does 21(3) apply?	

Temporary Placement Records relating to hirers (Regulation 29)

Date appln rec'd		
Hirer's name		
Hirer's address		
Location of work (if different from above)		
Nature of business (Reg 18)		
Position req'd		
Duration or likely duration		
Experience, training, qualifications etc required by the hirer		
Expenses payable to or by the work seeker		
Copy terms of business + any variation (reg 16&17)	Date of Issue:	
	Date of Issue:	
	Date of Issue:	
Names of work seekers introduced or supplied		
Other legal requirements (Reg 20)		
Record of any checks re unsuitability of work seeker (Reg 22)		
Details of any engagement		Date of effect:
Notification as per Regulation 21	Date Intro:	
	Notified Orally/ Verbally	
	Date in writing:	
	Identity of WS: Yes/No	
	Exp & Req Quals:	

	Start Date:	
	Contractual Status:	
	Does 21(3) apply?	
Details of invoices raised	Details:	
	Date:	
	Amount:	

Annex 4: Inspection/Investigation report

Investigation report

Agency name:	
Address:	
Telephone no:	
YCF:	
Person(s) seen:	
Status:	
Date of visit(s):	
Date cleared by letter/phone:	
Infringements found:	
Date of infringement letter:	
Complaint / Inspection	

Report

1.

Recommendations

2.

Inspector:

Annex 5: Section 9 warning letter to agencies

Ref: XXX

BERR | Department for Business
Enterprise & Regulatory Reform
Employment Agency Standards Inspectorate
Bay 487
1 Victoria Street
London
SW1H 0ET
XXX.XXX@berr.gsi.gov.uk
020 7XXX XXXX

Date: XX/XX/XXXX

Dear

EMPLOYMENT AGENCIES ACT 1973

[Further to our recent telephone conversation] I am writing to inform you that I shall be visiting your premises on to carry out an inspection of your records kept in accordance with the Employment Agencies Act 1973.

The Employment Agency Standards Inspectorate is responsible for enforcing the provisions of the Employment Agencies Act 1973 and associated conduct regulations. The legislation requires employment agencies and employment businesses to abide by specified minimum standards of conduct. The scope of the legislation and its requirements are set out in general terms on our web site www.berr.gov.uk/whatwedo/employment/employment-agencies/index.html.

I set out in this letter our enforcement powers under section 9 of the Employment Agencies Act 1973. An inspector authorised by the Secretary of State for the Department for Business Enterprise and Regulatory Reform can enter premises (where there is reason to believe that employment agency or employment business activity is being conducted), to inspect, copy or remove any such records held on the premises and to ask any person on the premises any question. It is illegal, under employment agency law, to obstruct an Inspector from exercising these powers.

When undertaking the inspection, I will request to see copies of the agencies advertising records, terms of business to employers and work seekers. I will also look at records relating to a randomly selected number of placements and inspect these records advising you accordingly.

I look forward to meeting you on

Yours sincerely

NAME

Inspector

Annex 6: Warning letter – following agency visit

Ref: XXX



Employment Agency Standards Inspectorate
Bay 487
1 Victoria Street
London
SW1H 0ET

Date: XX/XX/XXXX

Tel +44 (0)20 7215 5788
Enquiries +44 (0)20 7215 5000
Minicom +44 (0)20 72156740

www.berr.gov.uk/employment

Dear

EMPLOYMENT AGENCIES ACT 1973

When I visited you on XXX, to carry out an inspection of your records, I drew your attention to the following infringements of the Employment Agencies Act 1973 and/or the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

Insert the Regulation number and a brief explanation of what the regulation means.

I attach an Annex which sets out in full the provisions of the Act or Regulations.

At this stage, I would like to give you an opportunity to [amend your practices] [terms and conditions] [arrange immediate payment of work-seekers]. We discussed how you might set matters right and I would appreciate, your written confirmation within the next two weeks of the steps you are taking to correct [this] [each of these] infringement[s] and when you anticipate that you will be fully compliant with the legislation. I will need to see copies of any revised documentation that you produce in order to comply with the legislation.

Please use the same numbering when replying to this letter and please address each regulation set out in this letter and your intentions to comply with each regulation.

We reserve our right to commence prosecution proceedings and/or prohibition proceedings and to produce this letter and any further correspondence as evidence of breaches of the legislation if we do not receive a satisfactory response from you by [DATE].

Thank you for your help and co-operation during my visit [investigation].

Yours sincerely

Inspector

WARNING:

Any person who contravenes the Employment Agencies Act 1973 Act and/or the Conduct of Employment Agencies and Employment Businesses Regulations 2003 is guilty of an offence and liable on conviction to a fine. It is also open to the Secretary of State to apply for an order prohibiting a person from carrying on or being concerned with the carrying on of an employment agency or employment business for up to a maximum of 10 years where he considers that a person is unsuitable to be so involved.

Annex 7: Reminder letter seeking agencies response

Ref: XXX



Employment Agency Standards Inspectorate
Bay 487
1 Victoria Street
London
SW1H 0ET

Tel: +44 (0)20 7215 5788
Fax: +44 (0) 20 7215 0227
Enquiries: +44 (0)20 7215 5000
Minicom: +44 (0)20 72156740

Date: XX/XX/XXXX

www.berr.gov.uk/employment

Dear

EMPLOYMENT AGENCIES ACT 1973

My Inspector, (name of inspector), wrote to you on (date) drawing your attention the infringements of the Employment Agencies Act 1973 and/or Conduct of Employment Agencies and Employment Businesses Regulations 2003 that he/she identified during his/her visit to your premises on (date)

We have not, to date, received any written response from you setting out how you propose to comply with the legislation. I would appreciate your written response regarding the action your client proposes to take on each of the points raised in the letter by (date) otherwise a further visit to your offices may be necessary to ensure full compliance with the 1973 Act and Conduct Regulations.

Alternatively we may commence prosecution proceedings and/or prohibition proceedings without further notification to you and may produce this letter and any further correspondence as evidence of breaches of the legislation if we do not receive a satisfactory response from you by 14th June 2008.

If you wish to clarify any of the points raised in the letter please contact me on 02072155777 or the Inspector (name of inspector) on (tel No).

Yours sincerely

Employment Agency Standards
Operations Manager

Warning:

Any person who contravenes the Employment Agencies Act 1973 Act and/or the Conduct of Employment Agencies and Employment Businesses Regulations 2003 is guilty of an offence and liable on conviction to a fine. It is also open to the Secretary of State to apply for an order prohibiting a person from carrying on or being concerned with the carrying on of an employment agency or employment business for up to a maximum of 10 years where he considers that a person is unsuitable to be so involved.

Annex 8: Six week holding letter to complainant

Please note the following example deals only with straightforward complaints. For more complex cases Inspectors should consult their Line Manager before sending a reply. Although we need to be helpful we must make sure we do not breach section 9 .

Ref: XXX

BERR | Department for Business
Enterprise & Regulatory Reform

Employment Agency Standards Inspectorate
Bay 487
1 Victoria Street
London
SW1H 0ET

Tel: +44 (0)20 7215 5788

Fax: +44 (0) 20 7215 0227

Date: XX/XX/XXXX

Enquiries: +44 (0)20 7215 5000

Minicom: +44 (0)20 72156740

www.berr.gov.uk/employment

Dear

EMPLOYMENT AGENCIES ACT 1973

I am writing to inform you that we have now completed our investigation into your complaint against [name of agency].

I visited [contacted] the agency on [date] and discussed your complaint with [name of person seen]. I also carried out an inspection of the agency's records to ensure compliance with the Employment Agencies Act 1973 and associated regulations.

[If complainant wished to remain anonymous] I can confirm that I did not disclose your name during my investigation.

[If complaint was specifically about non issue of terms] During my inspection I drew the agency's attention to the requirements of the employment agency legislation in respect of the issue of terms to workers and I am seeking compliance where appropriate.

[If complaint was specifically about non payment] During my inspection I drew the agency's attention to the requirements of the employment agency legislation and [either]

[I am pleased to be able to inform you that the agency have now made [will make] a payment to you. Although we have no legal powers to recover money for workers I am pleased to have been able to assist you in this matter]

or

[I am sorry to inform you that although I drew the agency's attention to the requirements of the employment agency legislation I have been unable to assist you in recovering this money. As we explained in our acknowledgement letter we have no legal powers to recover money for workers and you need to seek your own independent legal advice]

I should inform you that the inspection of the agency's records was carried out by our enforcement powers under section 9 of the Employment Agencies Act 1973. This means that are legally restricted in the information that we can legally disclose to you in relation to our findings.

Thank you for your assistance and for bringing this matter to our attention.

Yours sincerely

Annex 9: Completed action record

File No: YCF:

Date Received:

Agency:

Type/Activity:

Complainant: Inspector:

Acknowledgement by H.O: File received from H.O:

6 Week Review date:	6 Week Review date:
Complainant/s contacted:	Complainant/s contacted:

Complaint Clearance

Type	Date	Result	List Infringements
Phone		Substantiated Unsubstantiated Out of scope	
Email		Substantiated Unsubstantiated Out of scope	
Complaint visit		Substantiated Unsubstantiated Out of scope	
Inspection visit		No infringements Infringements found	

**Total money recovered £ Nil for (number) of complainants

Corrective Letter sent:

Cleared by phone to complainant:	Cleared by letter / email to complainant:	Cleared on database:
N/A	N/A	

1st review date (4 wks):

1st reminder letter sent:

2nd review date (8wks):

2nd reminder letter sent:

Response to corrective letter received:

No response to corrective letter passed to IM:

Further action required:

File cleared:

CFS:

Department for Business, Enterprise and Regulatory Reform

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