

Background Summary

In 2016, the Employment Agencies Standards (EAS) Inspectorate, part of the Department for Business, Energy and Industrial Strategy (BEIS) launched Operation Pedagogue. The objective: that tuition introducers - from agencies to platforms - are compliant with the law and regulations relating to employment agencies. (Non compliance is a criminal offence).

Tuition introducers - from agents to publishers - are indistinguishable from employment agents and do not enjoy exemptions from their regulations. The introducers must engage with tutors either as Employment Businesses, where tutors are their workers (attracting VAT to their fees); or as Employment Agencies, where tutors and agents invoice hirers separately for their respective fees, since the chief contractual relationship is between the tutor and the tutor hirer - not the tutor and the introducer.

Safeguarding provisions of the employment regulations are not burdensome or contentious. They have always been welcomed by TTA.

The difficulty faced by introducers (or 'work finders') is that tutors (categorised as 'workers' or 'work seekers') are protected by two key tenets of employment agency law. A work seeker cannot be charged by a work finder for introducing a hirer. Nor can a work finder handle payments from a hirer to a work seeker.

A number of agencies contested their deemed status as employment agencies, including by judicial review, where the grounds were dismissed, with leave to appeal refused. The view of the EAS that the legal process has run its course is now respected. Rather than exploring further grounds for judicial review, lobbying for the exemption of all private tuition from VAT perhaps remains the cause to consider.

A positive development is the sanctioning by the (EAS) of the following Employment Agency model: Employment agency fees may be invoiced continuously (not just once); Tutors may collect fees owed by their hirer to their agent; split payment systems may execute this function simultaneously. This requires two invoices, from the agent and the tutor, and cannot prevent tutors from opting out and making their separate payment arrangements with clients.

Relations between TTA and the EAS remain productive. We respect their duty to ensure compliant tutoring within the confines of the law. Therefore, from January 1st 2023, all corporate members of TTA must be fully compliant if they wish to continue as members.