

Clive Hurst submission to: Low Pay Commission - 6 October 2008

Further to the LPC meeting dated 10 September 2008, I would like to highlight a number of bullet points on the matters raised.

ITEM 1,

Currently NMW regulations are silent, on a 'workers right to the NMW after deductions by an employment agency; this cannot be right.

Agents can and do negotiate rates of pay on behalf of an employer, for the worker, under the full knowledge, that after agency deductions those workers receive less than the NMW. I refer to the case highlighted to the LPC involving a BBC backed film where the agent took such a high commission (21% inc vat) the worker received less than the NMW.

Clearly the employer hired the agent, the agent hired the worker; but charged the worker for their services, instead of the hirer; because the agent had the upper hand. If the worker does not agree with the agent's terms and conditions; they receive no work. Coercion is the word I would use. If a worker complains - they may never work again through that agent or any other agent, as I have found.

Agents can and do charge a book fee from work provided and make a deduction from the workers first day's earnings. Agents currently take on as many workers as they can, purely to profit from book fees. Hard evidence was given to the LPC, of agents only giving a day's work in the second year and then taking two years worth of book fees; which left the worker with only £3 for a full day's work. Other similar evidence was provided.

Clearly where there are loopholes in the law, employment agencies in the entertainments industry will exploit them, to the full. Also mentioned was the fact that some agents charge 33.3% commission; which is very unfair. One such agency is Models Direct; see my blog on this agency: <http://models-direct.blogspot.com> and Models Direct website, item 6: http://www.modelsdirect.com/model_terms.html

NMW Regulations must state that the NMW is after agency deductions; this will stop agents only giving one day's work per year/two years/three years, just to profit from up-front book fees. Agents would be forced to take only a proportion of these fees. It would stop agents charging exorbitant commission rates/fees on poorly paid jobs, which before deductions - were on or close to the NMW. There must be safeguards against low pay where there are also exorbitant charges; which amount to legalised theft. There is no protection for any worker in the entertainments industry when it comes to fees charged by employment agencies; hence the fact that the EAS do not take any prosecutions on such matters.

ITEM 2,

There is widespread abuse within the entertainments industry of (A) Work-finding services (B) Employers - offering work for low pay/no pay. Every single day I see such adverts. It is clear that both agencies and employers feel that NMW regulations are there to be broken.

Non-compliance brings the minimum wage into disrepute and because it is on such a substantial scale; it erodes support for it in the entertainments industry.

It must be an offence for a work-seeking service, or an employer, to advertise work which clearly breaches the NMW. There must be a regime of **statutory** fines imposed, say from £100. There must be mention in the job advert of the rates of pay expected; or a statement that the fee is at or above the NMW; particularly for agents – that it must be **after** any agency deductions.

Clearly employers have to advertise for workers. By putting in regulations/fines that make it an offence to **OFFER** work - that clearly breaches the NMW; it will have a dramatic effect. It will reduce the number of complaints that the HMRC have to investigate. It is cost effective. And, it will mean that fewer workers will have to put their head above the parapet to make a NMW complaint.

Getting workers to make complaints in the entertainment industry has always been extremely difficult. If you open your mouth; you do not work again!

Clive Hurst

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