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MONEY BOX

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LEWIS: Hello. In today's programme, what rights do temporary workers have to pay in place of holidays they don't take? One agency refuses to pay for any fractions of a day at the end of a contract. Bob Howard's here – he's been finding out more about the perils of wine investment. Bob?

HOWARD: Yes. And how a salesman who worked for a collapsed firm is now hard at work with a new venture.

JANE: Obviously he's deliberately misled my father and I'm angry and hurt about that.

LEWIS: The PPI claims management firms that are still charging massive upfront fees. The Ministry of Justice though is on their tail. And why the banks still retain power over someone's money even when a relative has a power of attorney.

But first, Britain's biggest recruitment agency, Adecco, has been accused of underpaying people it recruits into temporary jobs. Short-term workers are entitled to holiday pay like permanent staff, but they seldom take days off, so when their job ends they get paid pro rata for the days they haven't taken. But Adecco rounds down holiday pay to the nearest day, refusing to pay for even a large fraction of a day. That

could cost someone simply earning the minimum wage more than £40 at the end of their contract. Ben Carter's been looking at this.

CARTER: Yes Paul. Money Box was contacted by listener Adrian Fletcher. Adrian went to Adecco looking for work in January this year. They offered him an 8 week contract at Zurich Financial Services. Adrian didn't take any holiday during those 8 weeks, so he was entitled to paid holiday at the end of his contract, but he didn't receive the amount he expected.

FLETCHER: I calculated what my holiday entitlement would be from that 8 weeks to be a certain amount. It was supposed to be 4.828 days. When I contacted Adecco after I received the payment for holidays, Adecco said "You've been paid for four days", and when I queried the .828 days, they said they're unable to pay for part days and they refused to pay it initially. I contacted and took advice from the Citizens Advice Bureau and they said that that amounts to withholding pay, and as soon as I contacted Adecco and raised a grievance with them, they said, "Oh we're very sorry, we'll pay you the .828 of a day now." And I found that all my colleagues have been in exactly the same situation - have been told you know you're not entitled to this; and when they queried it, they were told, yes, here's your remainder, we're very sorry.

LEWIS: That's Money Box listener Adrian Fletcher. Well I asked Sarah Veale, Head of Employment Rights at the TUC, if it was legal to round down holiday pay.

VEALE: I think that's completely wrong and I would certainly question the legality of that. That's not what the working time regulations say. They're quite specific - that you count the time that you work. You can't conveniently discount a small amount simply because it's easier to do the computations. You've got to count everything that's in there.

LEWIS: Is working out holiday pay for temporary workers particularly hard? I mean is it something that in your experience agencies do and have got wrong?

VEALE: It's an area that's complicated. And it's not just agencies actually. I mean it's one of those areas where the law is quite prescriptive, but because it's quite prescriptive it's easy to get it right as well. If you look at the YouGov website and the guidance that there is up there and in ACAS and other places for employers, it does take you step by step, particularly actually for organisations like employment agencies, and indeed their own trade body helps them to work out these things. And if they're in doubt, they should get advice rather than just making a blanket assumption that they're not going to do something and applying that unilaterally.

LEWIS: Sarah Veale. So, Ben, the key issue here is rounding down, isn't it - not paying a fraction of the day's holiday pay that you've earned?

CARTER: That's right, the employer has to use a formula to work out how many days off you haven't taken. If you work for 3 months, that's a quarter of a year. The annual statutory leave entitlement is 28 days, so a quarter of that is 7 days. The problem arises when that sum produces a fraction; so if you work a 2 month contract like our listener Adrian did, that's one sixth of a year, and one sixth of 28 is 4.67 days. Now Adecco only pays 4 days and doesn't pay that two thirds of a day's pay at the end of the contract.

LEWIS: Thanks Ben. And just to be clear, that 28 days leave entitlement includes public holidays like Good Friday and May Day. The Managing Director of Adecco Group Solutions is Chris Moore. Earlier I asked him why Adecco doesn't pay workers for a fraction of a day.

MOORE: When an employee works with us or works for us and they're in continuing employment and they take holiday, they get absolutely everything that they've accrued. When it comes to a point in time of them leaving, then we have to take a calculation and that calculation is used to settle the person when they leave.

LEWIS: And you round that down - so if it comes to 5.7 days, you pay them 5 days?

MOORE: That can happen - yes, yeah.

LEWIS: That's what does happen. That's how your calculation works, as I understand it.

MOORE: Yeah.

LEWIS: Right. We have had advice from lawyers and from the Trades Union Congress employment specialists that that is simply wrong; that is against the European regulations.

MOORE: We're fully compliant with all the appropriate legislations.

LEWIS: So you believe that's right under European law?

MOORE: Absolutely. There are two forms of workers: there are casual workers and there are individuals on contracts of employment. All of our workers are on contracts of employment.

LEWIS: And you're saying that allows you to round down days' leave?

MOORE: For the legislation, we have to be compliant, which we are.

LEWIS: And if you believe that you're right about those bits of arithmetic, why is it that when people like Adrian Fletcher complain, you immediately pay them the difference? He was sent an extra £41.62 as if those bits of arithmetic you've just carefully described to me were in fact wrong.

MOORE: Firstly, you know I'm not going to discuss the individual circumstances, but I'm very happy to address these with the individuals concerned. I'd be delighted to sit and meet with Mr Fletcher.

LEWIS: Well he doesn't need that because he wrote a letter and you gave him the money he asked for.

MOORE: I can assure you that how we've paid out Mr Fletcher is absolutely in line with legislation.

LEWIS: So you're not paying these people out - and I believe there's another of his colleagues has got a similar payment - you're not paying them out just to avoid them going to a tribunal and perhaps the tribunal finding that your interpretation of the law is wrong?

MOORE: No, absolutely not.

LEWIS: So that was Chris Moore from Adecco. Is his view right? Can a worker and an employer agree at the start of the contract not to pay a fraction of a day? Ronnie Fox is the Principal of the City of London employment lawyers Fox.

FOX: There's a very clear statutory right for an employee to have payment in lieu of a fractional entitlement to leave. It might be possible for an employer to get round that by coming to a very clear agreement with a worker, but it seems quite unfair that he should do so.

LEWIS: And when you say a clear agreement, does that mean that the employer and the employee have to sit down and look at it and say yes, I agree, or no, I don't agree, or can it just be something as simple - which is what Adecco seem to do - as a booklet of information you're given on the day you commence your employment?

FOX: Well I haven't seen Adecco's agreement. If it says that the employee has read and understands the booklet that he's been given and that he regards it as binding upon him, then I suppose it might be regarded as an agreement, but it does seem unfair.

LEWIS: And if someone feels it's unfair or feels they haven't rationally come to an agreement over this, can they go to a tribunal or go to an arbitration service to try and get the decision overturned?

FOX: You can get free advice from the Citizens Advice Bureau. The government body ACAS might be able to help. And if they say that the right under statute has not been clearly varied by agreement, then yes you can go to a tribunal.

LEWIS: Ronnie Fox. As he said, there are plenty of places to get help. The ACAS number is 08457 474747. It's open till 1 today and 8 to 8 Monday to Friday. And you can also let us know your holiday payment experiences through Have Your Say on our website: bbc.co.uk/moneybox. Now in the last hour Adecco has sent us a further statement saying Adecco strongly denies the allegations made on the BBC that it is acting illegally in its treatment of payment in lieu for holidays not taken by its employed agency workers. The working time regulations 1998 clearly state that an employer (in this case Adecco) may agree with its employees how payment in lieu for holidays not taken is managed on termination of employment.

Money Box has learned that some people involved in a wine investment company, which collapsed last year owing £10 million, are again active selling in the same field. The Insolvency Service has recently closed four wine investment firms which it found to be trading against the public interest, but experts in the wine investment field believe the authorities should be doing more to clamp down. Bob Howard reports.

Bob?

HOWARD: Paul, Money Box has been contacted by Jane from Northumbria. Her father invested £82,000 with Bordeaux UK Limited, the firm which we reported last week had collapsed due to what the liquidator called "mismanagement on a colossal scale". But we've been told that at least one of the brokers who worked for Bordeaux UK is now working for a new firm called Vin Bordelais Limited set up in April last year. Jane says the salesman used high pressure tactics to persuade her father to buy more wine through Vin Bordelais. That's despite the fact that her father is gravely ill

and had already lost tens of thousands of pounds through investing with Bordeaux UK.

JANE: When Bordeaux UK went into liquidation, he told my father that Bordeaux UK had changed its name to Vin Bordelais because it was more appealing to the market, but he didn't explain to my father that Bordeaux UK had gone into liquidation. Obviously he's deliberately misled my father and I'm angry and hurt about that.

HOWARD: Jane says she only discovered the extent of her father's wine investments and the sales tactics used to sell to him when he became too ill to manage his own affairs. Her sister has contacted Vin Bordelais to instruct them to sell their father's wine, but received no response. Ian Vanderhook, the sole director of Bordeaux UK, also works for Vin Bordelais, an employee told me, where he does sales training and motivational talks. And wine investment expert Jim Budd has discovered other similarities between the two firms. He says when it first started, Vin Bordelais' website had the same phone number and distinctive logo as Bordeaux UK's. Both have since been changed.

LEWIS: So Bob, what have you found out about who actually runs Vin Bordelais?

HOWARD: Well the sole director is registered at Companies House as Laurence Douglas Adams. He runs a company registration service which has no obvious link to wine investment. After repeatedly contacting Vin Bordelais, we received an email from Mr Adams saying the firm would refund Jane's father if he returned the wine, which is stored in his own account, but he didn't say why Jane's father had not been told of the collapse of Bordeaux UK. And on Friday we finally received a short email from Mr Vanderhook who we'd been told was on holiday. He said he felt it would be "inappropriate" to comment whilst the liquidator is winding up Bordeaux UK.

LEWIS: And Bob, what have the authorities had to say about the broader issues of

wine investment companies failing?

HOWARD: Well we spoke to a number of different regulators and government bodies to find out what was being done to stop investors losing tens of millions of pounds. They said we should speak to the Insolvency Service. Jim Budd says whichever body is responsible for clamping down on these firms, much more needs to be done.

BUDD: The police are becoming more interested. I think there's certainly a role for the Insolvency Service to become more involved again because there was a time when, between about 2000 and 2004 - when the DTI did close down some eighteen, twenty wine investment companies in the public interest. I think there are now plenty of candidates that ought to be closed down.

LEWIS: That was Jim Budd finishing Bob's report. Robert Burns is Head of Investigations and Enforcement for the Insolvency Service. I asked him how widespread he considered issues around wine investment to be.

BURNS: We haven't seen the kind of explosion that you might have anticipated as identified by the programme last week. I can only report on cases that have come to us to be investigated and we've closed down four in fact in the last 2 years.

LEWIS: When you close down companies, what power do you have to do that?

BURNS: We use this term 'public interest' and it covers a wide variety of things. For example, it might be that the company's making false representations, promising what can't be delivered, pressure selling, being run by a disqualified director. Fortunately we're not constrained by a narrow definition.

LEWIS: In that case, why haven't you looked at more because we were told by an insolvency practitioner last week that around fifty firms had gone into administration,

yet you've only closed down in that time four firms. Why aren't you being more active using this public interest power?

BURNS: I would imagine the answer is because they weren't reported to us. I mean we can only investigate what we know about.

LEWIS: But surely you have a department that actually scans adverts, don't you - a vetting department that looks through adverts, that watches afternoon television and finds the trends in this kind of company?

BURNS: We rely essentially on reports from the public to prove they've actually been scammed. We can't mystery shop, we can't pretend we're an investor, so we have to rely ...

LEWIS: (*over*) So what does the vetting department do then? It looks at these adverts?

BURNS: No, no, it considers complaints from the public to say that they've been aware of something that makes them feel uncomfortable or indeed they have been scammed; and when we believe there is a company trading against the public interest, we reinvestigate it as soon as possible and we will take it to court as soon as possible to get it wound up.

LEWIS: But if you heard of a firm that had gone into administration after what the administrator called "mismanagement on a colossal scale" and then you found that at least two of those involved were with another firm still selling wine as an investment, would that be a reason to investigate?

BURNS: It would be one of a number of reasons that we have to investigate.

LEWIS: There are hundreds, possibly thousands of people who've lost £100 million

who are thinking there is a government department that has the power to investigate in the public interest and it's not helped me.

BURNS: Well I would say to them have they complained to us in the first place? Where the public are being scammed, where the public are being ripped off, that comes right to the top of our list of priorities and all those cases are investigated. We've got targets that where the public is at risk, we will investigate within 7 days, and that's a criteria that we keep to.

LEWIS: Robert Burns from the Insolvency Service. And if you want to tell him about any firm you think is acting against the public interest, there's a link on the Moneybox website.

More than 700 firms that help with claims for Payment Protection Insurance and other financial compensation have been closed down by the Ministry of Justice in the last 5 years, but there are still 3,000 of them actively at work trying to encourage people to claim Payment Protection Insurance compensation. Money Box listener Mick got a cold call from a PPI claims firm which offered to work for him on a no win, no fee basis, but it still took a hefty amount upfront to pursue 11 claims on his behalf.

MICK: They took from me as an upfront payment £4,335 from my credit card, and this was even before they'd made any enquiries whatsoever. This was a total upfront fee. They told me that it would take between 8 and 10 weeks. Well that didn't really bother me thinking that okay I'm only going to get a couple of months interest on top of that and I can live with that. It's now been almost 10 months, so in total it's cost me £1,000 on the credit card, interest alone. I do feel very bitter because I appreciate that they have to make a profit, that they obviously do put some work into dealing with people's complaints, but the amount of money that they actually take off the person I think is outrageous.

LEWIS: That was Money Box listener Mick. And so far only two of Mick's eleven

claims have been settled and the claims firm charged him an extra £750 out of the compensation he's received. Another listener, Jean, responded to an advert on TV. The firm asked her to pay £1 on her credit card for them to pursue her claim. Her bank did offer to pay her just over £1,800, but the claims company were hot on her heels.

JEAN: I got a letter from the claim company with an invoice for £643.10, which was our fee - 29% plus VAT. A member of my family rang the claim company and disputed the invoice. We discovered on that day - on that very same day, probably as he was talking on the telephone - they took a charge from my Barclaycard, which was the original way I paid the £1, of £643.00. I have to say that at no time was a figure of 29% fees mentioned to me. So you know it makes you feel stupid really to be absolutely honest. It makes me feel very vulnerable.

LEWIS: So what is the Ministry of Justice doing to close down firms that cold call people and charge them a great deal for making a claim they could easily make themselves. Kevin Rousell is Head of Claims Management Regulation at the Ministry.

ROUSELL: We've seen some businesses who charge on a basis of what they expect the winnings to be at the end of the claim and those sort of figures can be quite high. We have taken action against some businesses and we're not aware that those businesses are now charging on that basis because it was causing this sort of distress for many consumers.

LEWIS: Why can't you just ban upfront fees altogether and just not issue licences that allow upfront fees?

ROUSELL: We'd have to change the legislation to do that. But we can (where the evidence is there) deal with individual businesses who have clearly not been conducting themselves properly and do that, and we've done that in respect of some

notable firms recently.

LEWIS: So don't pay upfront fees. And what about the scale of the fees? We heard from Jean that she's paying altogether nearly 35%. More than a third of the money she's owed is going to the firm and in VAT. Can you control the amount of the fee?

ROUSELL: It's not possible to cap it, but what we can do is make sure that the fee is explained crystal clear at the outset.

LEWIS: She says it wasn't.

ROUSELL: Well it should be. I mean that's one of the basic requirements, about giving worked examples - so if it's 20% of £10,000, what does that mean in cash terms? And also though to be clear what that fee is being charged on. Some businesses charge it just on the cash compensation, but others may charge it on any future benefits and so on. So being crystal clear so that people can make an informed choice.

LEWIS: And part of an informed choice nowadays is being able to see on the internet what the charges are in a very clear way. Do all these firms show that?

ROUSELL: Yes, we would expect businesses to make it crystal clear in any contractual information, but also on their websites it should be clear what the fee is and what it covers. There is a requirement for businesses to give written information which consumers can review in their own time, and that includes the fee, before they agree to go ahead with the contract. It's those businesses who've been flouting those requirements that are the ones we've been taking action against.

LEWIS: So if they ask for your credit card number before you've had written details that you can say yes or no to, that is wrong?

ROUSELL: It is. I mean I can find no reason I can think of why you should give your credit card details across to the company at all before you start a process. If they say they need it for identification purposes, that's rubbish.

LEWIS: So anybody who's been charged a big fee upfront, who's not had it made clear to them what they'll be charged, who's been asked for a credit card number before receiving a contract, they should tell you and you will look into that firm?

ROUSELL: Exactly, we certainly will.

LEWIS: There are still 3,000 or more of these firms cold calling people, sending them texts, sending them emails, trying to get their business. Why can't you do more to stop them?

ROUSELL: Well of those 3,000, there's a few very large businesses who tend to take(ph) up most of the market and most of the claims management companies don't tend to involve in text message; they buy the data in. But it's such a vast range of different practices which are involved here and of course some are in personal injury, some are in financial services, and many businesses actually are behaving correctly. But there are others who aren't and we have I suppose about 20% of our complaints are from about 10 businesses, so we need to focus effort on those businesses.

LEWIS: Kevin Rousell. And Which? and Moneysavingexpert are launching a campaign on Monday to raise awareness of how to make a PPI claim yourself. It's very easy. There are links to them on our website.

There are claims this week that the high street banks show little understanding of the needs of people who have a power of attorney to manage the financial affairs of a relative. Research by the financial website Savvywoman.co.uk found that banks are inconsistent over what documents family members require and don't always allow them to manage an account in the way that suits them best. Money Box listener Sally

Stevens from Worcester has had problems with her power of attorney for her aunt who suffered a stroke last November.

STEVENS: You turn up in person with your passport, with all your proof of documentation, power of attorney and everything, and they either look at you blankly as though they don't know what you're talking about or send you to somebody else because obviously it's a problem they're either not used to dealing with or they don't want to deal with, frankly, and they just want to palm you off.

LEWIS: Well Sarah Pennells is with me. She's the founder of the financial website Savvywoman.co.uk that did that research. Sarah Pennells, Sally's trying to get an online account which she really needs because she lives in a rural area. How easy is that with a power of attorney?

PENNELLIS: It really depends on the bank that you want to open the account with and sometimes whether you are already a customer. So, for example, quite a few of the banks will let you bank online if you've got a power of attorney account; but, for example, Santander won't - you can only bank by post or phone. Skipton and Virgin Money, you can only operate accounts by post. First Direct will let you operate an account by post only unless you're already a customer. And I think what's interesting is that some of the banks that are the most restrictive are some of the ones that are kind of newer that you think would be a bit more fleet of foot.

LEWIS: And you'd think would be completely online like Virgin Money. And your research also found inconsistencies about even the documents that you need and how they're dealt with.

PENNELLIS: Well it was inconsistencies about the documents they require, whether that was ID documents about the proof of power of attorney ...

LEWIS: (*over*) And this is the ID of the attorney, not the person who you're acting

on behalf of?

PENNELLSS: Well both because some of them don't require much ID documentation for the person that you have now got control of the accounts of. Others do. Some would say well if they've already been a customer elsewhere, maybe they've got a current account, we can rely on those records. Some said if they've banked with us for a long time, we may not have actually captured that information, so you need to bring more documents. So this was the real issue - was it was such a confusing picture and it wasn't always easy to get the information.

LEWIS: And what happens with these precious documents like a power of attorney - what happens if they're lost, because does that really stop anything happening at all?

PENNELLSS: Well it does and this was very worrying - was a couple of the building societies actually said initially to me we only accept original certificates. This was Nationwide and Skipton. Now when I went back to them, they actually said no, we will accept certified copies. But if you lose these documents, if you lose the original (or more likely the bank does) you're really stuck because you have to reregister.

LEWIS: And very briefly, Sarah. There were 200,000 powers of attorney registered last year. If a customer has a problem, what should they do?

PENNELLSS: Well I think first of all look at another bank, a bank that you've got a good relationship with. If you have a problem, just refer it up; and if you get nowhere, complain to the Financial Ombudsman Service.

LEWIS: Sarah Pennells of Savvywoman.co.uk, thanks. And that's it for today. Much more on our website: bbc.co.uk/moneybox. Vincent Duggleby's here Wednesday with Money Box Live taking questions on divorce and separation. I'm back next weekend. Today reporters Ben Carter, Bob Howard. Producer Sally Abrahams. I'm Paul Lewis.