

THE CODE COMPLIANCE PANEL OF PHONEPAYPLUS TRIBUNAL DECISION

Thursday 29 April 2010
TRIBUNAL SITTING No. 52/ CASE 2
CASE REFERENCE: 833308/CB

Service provider:	Home-Day-Care Agency Ltd, Salford
Information provider:	N/A
Type of service:	'Advice line' purporting to be a recruitment agency
Title:	'BBM Consultancy' purporting to be 'Kids at Home' childcare recruitment
Service numbers:	09058200138
Cost:	65 pence per minute
Network operator:	BT
Number of complainants:	1

THIS CASE WAS BROUGHT AGAINST THE SERVICE PROVIDER UNDER PARAGRAPH 8.5 OF THE CODE

BACKGROUND

On 3 February 2010, PhonepayPlus received a complaint from a member of the public in relation to a childcare recruitment service using the premium rate number 09058200138. The complainant stated that the service was operating as part of a "scam" to encourage bilingual nannies and au-pairs looking for childcare work to join and contact the 'Kids at Home' recruitment agency by way of a premium rate number.

The complaint stated that the service had been promoted on a classified advertisement on the Gumtree website. On calling the premium rate number, the complainant was given a lengthy telephone interview, costing 65 pence per minute. It appeared that the interview was a means of generating revenue and there had been no intention of assisting the candidate in finding work.

The Service Provider known as Home-Day-Care Agency Ltd (trading as BBM Consultancy) had approached BT (Network Operator) to gain a premium rate number and this was provided by the Network Operator on 23 November 2009.

The evidence relating to the Network Operator's due diligence process indicated that it had asked questions of the Service Provider before providing the premium rate number in question. The Service Provider responses to some of the Network Operator's due diligence inquiries were as follows:

- *"The service will be an advice line which will operate 7 days a week. The nature of the service is to provide individuals who have shown interest or requested information how start a home based business. They will get information and advice how to start and if they are qualified to be successful."*

- *“Listen to the costumers’ [sic] problem, make notes of them and do my best to resolve the problem for the costumer [sic], If the problem is out of our hands we will advice & support the costumer [sic] where to go for the problem to be solved.”*

The responses provided by the Service Provider to the Network Operator, which had set out the intended use of the premium rate number, were not adhered to. The premium rate number had been promoted on the Gumtree website and had prompted consumers to call the premium rate number and register with what purported to be a recruitment agency called ‘Kids at Home’ childcare recruitment.

The Investigation

The Executive conducted this matter as a Standard Procedure investigation in accordance with paragraph 8.5 of the Code.

The Executive issued a preliminary investigation letter to the Service Provider dated 3 March 2010. The Service Provider responded to this preliminary investigation by email on 15 March 2010.

The Executive subsequently issued a formal breach letter to the Service Provider dated 19 March 2010. The Service Provider did not respond to the alleged breaches raised in the Executive’s letter.

The Tribunal made a decision on the breaches raised by the Executive on 29 April 2010.

SUBMISSIONS AND CONCLUSIONS

ALLEGED BREACH ONE

FAIRNESS (MISLEADING) (Paragraph 5.4.1a)

“Services and promotional material must not mislead, or be likely to mislead in anyway”

1. The Executive submitted that it had received one complaint from a member of the public on 3 February 2010 and this had brought the Service Provider’s promotion to the attention of the Executive.

The Executive submitted that the promotion had the appearance of a genuine advertisement, specifically targeting bilingual nannies and au-pairs. It submitted that the promotion had set out two methods by which interested parties could contact the ‘Kids at Home’ recruitment agency. The first was to call the premium rate number 09058200138, which had been provided to the Service Provider for the purpose of operating a business start-up advice line.

The second method had been to send an email to the ‘Kids at Home’ email address from which the interested party would receive an email response followed by a telephone interview. The Executive submitted that the telephone interview required the applicant to dial the premium rate number, charged at 65 pence per minute from a BT landline.

The Executive made reference to the complainant comment in relation to this case that read as follows:

“My name is [NAME] and I really don’t know what i should in situation what’s happened to me. I am from Poland and was looking in GUMTREE.COM website for advertisement about bilingual nanny because I wanted to look after children. I found add from company call Kids at home based in Manchester and i phoned there few times for about 50mins all together. They charged me 1 pound per minute for my call, so my 02 BILL comes to 50 pound. In advertisement wasn’t anything how much it cost, and also when I asked lady said that this is 38p but after my last called add disappeared from gumtree and im sure it was a scam. In the end I have to pay 73 pound for my bill which 50 pound is for a scam, i don't want to pay it because somebody just cheated me!!! This number was 09058200138 what is very strange for me. I have email from this scam company and number on my 02 bill if that help.”

The Executive submitted that, having received the complaint, it contacted Gumtree.com, requesting a copy of the advertisement. It submitted that Gumtree stated to have also received a complaint about the advertisement and determined that the advertisement appeared to be a scam and, as such, had removed it from its website.

The Executive submitted that the Gumtree complainant had stated as follows:

*“Illegal or fraudulent ad:
This is a scam. I called them and after speaking 30 minutes I received a phone bill for 60 pounds!!!!!! The lady who is on the other side is telling you all the details about the job and then when you are expecting a date of you interview she is hanging”*

The Executive submitted that it was of the opinion that this promotion had been placed on the Gumtree website for the sole purpose of attempting to gain revenue from consumer phone calls.

It submitted that, in response to the preliminary investigation letter, the Service Provider had stated that a commission-based, part-time worker had confessed to placing the advertisement without the Director’s knowledge and that the Service Provider had never operated a childcare recruitment agency.

The Executive submitted that it was of the opinion that the complainant had been misled into calling the premium rate number in the belief that there was a genuine employment opportunity. It submitted that there was no genuine employment opportunity and that the service had not been genuine.

2. The Service Provider did not formally respond to the alleged breaches raised by the Executive.
3. The Tribunal considered the evidence and concluded that the two complainants had been misled by the Gumtree advertisement into thinking that there was a genuine employment opportunity available. The Tribunal found that consumers had intended to seek employment, had interacted with the service and had incurred a charge, when, in fact, there appeared to be no employment opportunity available. The promotion of the service was therefore misleading. The Tribunal upheld a breach of paragraph 5.4.1a of the Code.

Decision: UPHELD

ALLEGED BREACH TWO PRICING INFORMATION (COST) (Paragraph 5.7.1)

“Service providers must ensure that all users of premium rate services are fully informed, clearly and straightforwardly, of the cost of using a service prior to incurring any charge”

1. The Executive submitted that, following the consumer complaint regarding the ‘Kids at Home’ childcare recruitment service, it obtained a copy of the promotion as seen on the Gumtree website (Appendix 1).

It submitted that the Code required that all users must be fully informed of the cost of using a service prior to incurring any charge. It submitted that the promotion contained two separate calls to action. The first prompted consumers to dial 09058200138 (which cost 65 pence per minute). It submitted that the promotion failed to provide any pricing information informing consumers as to the cost of the premium rate call.

The second call to action was to email a CV to ‘info@kidsathome.co.uk’. It submitted that ‘The Kids at Home’ website (Appendix 2), found by following a link contained within the Gumtree promotion, had also failed to provide any pricing information in relation to the cost of the premium rate call.

The Executive asserted that at no point had the consumer been provided with any pricing information in relation to the premium rate number.

2. The Service Provider did not formally respond to the alleged breaches raised by the Executive.
3. The Tribunal considered the evidence and concluded that neither the Gumtree promotion, nor the ‘Kids at Home’ website, had contained any pricing information. As such, consumers had not been informed of the cost of calling the premium rate number prior to incurring a charge. The Tribunal upheld a breach of paragraph 5.7.1 of the Code.

Decision: UPHELD

SANCTIONS

The Tribunal’s initial assessment was that, overall, the breaches taken together were **significant**.

In determining the sanctions appropriate for the case, the Tribunal took into account the following aggravating factors:

- The service was valueless to the consumer. There was no evidence that any genuine employment opportunities were available;
- The behaviour of the Service Provider (or its employee) was wilful in that it had posted an advertisement containing a premium rate number without pricing information and without a genuine service being offered;
- The cost paid by individuals was high. Two complainants were charged over £50 each to call the service.

In mitigation, the Tribunal noted the following factors:

- The Service Provider offered to make refunds.

The revenue in relation to this service was in the very low range of Band 6 (£1-5,000).

Having taken into account the aggravating and mitigating factors, the Tribunal concluded that the seriousness of the case should be regarded overall as **significant**.

Having regard to all the circumstances of the case, including the revenue of the service, the Tribunal decided to impose the following sanctions:

- A Formal Reprimand;
- Fine of £500;
- The Tribunal required that the Service Provider submit any future services for Prior Permission for a period of one year from the publication of this decision;
- The Tribunal also ordered that claims for refunds are to be paid by the Service Provider for the full amount spent by users, except where there is good cause to believe that such claims are not valid.

This is Google's cache of <http://manchester.gumtree.com/manchester/85/52699485.html>. It is a snapshot of the page as it appeared on 20 Jan 2010 10:19:16 GMT. The [current page](#) could have changed in the meantime. [Learn more](#)

These search terms are highlighted: 09058200138

[Text-only version](#)



Bilingual,Nannies,Au-pairs,Childminders,Children party hostess required to start next week

Date posted: Wednesday 20th January

Location: Greater Manchester

Are you looking for a part-time job or for a fulltime placement? And enjoy working with kids? Do you speak english and 2 or more languages?
Note:English speaking nannies are welcome to apply.

english/polish
english/german
english/france
english/dutch
english/pakistani,hindoe
english/chinese
english/african ghana or nigeria
english/jamaican

We are fully booked with enquiries every week and are very busy with placing nannies starting from next week and urgently looking for bilingual speaking childcare workers within the Manchester Central ,Cheshire/stockport ,Odham,liverpool areas,leeds, areas,sheffield areas.

We also organise children birthday parties every week which will be an extra way to earn a hire amount to your current role within our organisation.

Successful applicants could start work next week!

We are looking to train succesfull applicants by the end of next week.
If you are wonderful with children and speak one of the above languages then this could be the job for you.

We are looking for childcare workers who have the following:

Lives in or near one of the above requested areas
Age 18+ (Essential)
Speak english and a second language (please see list above)
Experience of children (preferably a parent or working with children) (Preferable)Has own transport and a clean driving licence (if possible)

We can offer you:

Week work on a rota
Full training
Above average pay rates (£8-£15 p/hr dep on experience)
Uniform
Travel pay

Call us today on 0905-8200138 to book you in for an interview for this week
Please send also your CV to info@kids-at-home.co.uk

Please note all job offers are subject to a Police Security check for full enhanced CRB check for long term placements and reference checks.

Contact details

Email: [Click here to reply to this ad](#)

Phone: 09058200138

Anti spam: **Do NOT** contact me offering services or anything of a commercial nature.



Kids At Home"

Uk's Leading Childcare Recruitment Agency

[Home](#)
[About Us](#)
[Contact Us](#)

Welcome!

Kids At Home" offers a safe, nurturing environment where your child will get the attention and care that he or she needs. Our ratio of children to adults is always within state guidelines - and often even lower - to make certain each child receives top-quality care.

We are also state licensed as a home daycare facility and have met or exceeded all health and safety guidelines.

At Kids At Home", your child will participate in developmentally-appropriate activities throughout the day, such as:

- Story Time
- Show and Tell
- Puzzles and Games
- Computer Time
- Arts and Crafts
- Music
- Pre-Reading Activities
- And much more

You can rest assured that your child will be cared for with the utmost kindness, love and respect. We believe all children are precious gifts and we treat them as though they are our own.

Full-time, part-time and after-school schedules are available



Website powered by Vistaprint