



Gangmasters  
Licensing Authority

# **GLA43/12 Update on Discretionary Approach to Physical Site Visits for Application Inspections**

**15 October 2014**

# **Board Paper Reference – GLA43/12 – Update on Discretionary Approach for Physical Site Visits to Application Inspections**

## **1. Purpose of the Report**

- 1.1. This paper updates the Board on the GLA's discretionary approach to physical site visits when conducting application inspections, in particular:
  - Reviewing the applications received since the new process was introduced,
  - Explaining the reasons for whether a physical inspection was conducted or not, and
  - Providing an analysis of the new approach.

## **2. Recommendation**

- 2.1. The Board is invited to review this approach in line with its policy in GLA Brief 28.
- 2.2. The Board is also asked to consider whether adjusting the risk factors may reduce further the number of physical sites visits to increase capability and capacity within the GLA to focus on more high risk of harm activities, and whether that may be done without increasing risk.

## **3. Background**

- 3.1. Following the Red Tape Challenge and approval by the Board, the GLA introduced a revised approach to processing some inspections from 1 October 2013. The GLA now makes an assessment whether a physical inspection should be conducted as part of the application process. The Authority's approach is published in GLA Brief 28 (see Annex A).

## **4. Applications Since 1 October 2013 – 2 October 2014**

- 4.1. As of 2 October 2014, 101 applications have been processed where a decision has been taken as to whether a physical inspection should be conducted or not (60 additional applications since the previous paper GLA41/12 presented to the Board in April 2014).
- 4.2. The criteria and outcome against which the 101 applications were determined appears at Appendix B.

## **5. Analysis**

- 5.1. Between October 2013 and October 2014 of the 101 applications, 95 applications were put forward for a physical inspection (or 94 per cent) using the criteria published in GLA Brief 28. The remaining six have been granted without a physical inspection. Of the six granted without a physical inspection, three were granted a

full licence with three granted with Additional Licence Conditions (“ALCs”) – see paragraph 5.9 for reasons for granting a licence.

- 5.2. Of the 101 applications, 75 have now reached a final licence decision (i.e. whether a licence should be granted or not). 3 applicants cancelled their application. It is important to also take into account the number of cancelled applications as applications may be cancelled because the applicant does not wish to provide the GLA with information or undergo an inspection.
- 5.3. Of the 75 applications where a licence decision has been made, 69 are applications where a physical inspection was conducted. Of those 69 cases, 54 have been granted a full licence (78 per cent), 3 with ALCs (4 per cent) and 12 have been refused (17 per cent).
- 5.4. On review, the GLA could have refused one application without the need for a physical inspection based on the information held (reference 11 in the table at Annex B). However, the inspection did gather additional evidence for refusing the application.
- 5.5. Of the 95 applications put forward for a physical inspection, 23 are still subject to an ongoing inspection or waiting for a licence decision. Where the inspection is ongoing, either the visit has not yet occurred, enquiries are ongoing or the report is being completed.
- 5.6. Of the 95 applications put forward for a physical inspection, all would have been tasked for a visit under the criteria initially presented to the Board in paper GLA 37/8.2 “GLA Application and Inspection Consultation”.
- 5.7. The breakdown of the three mandatory inspection criteria are as follows<sup>1</sup>:
  - 1 Previously refused or revoked licence holder, or someone identified as previously linked to that business
    - 10 cases in total
    - 3 Fully licensed
    - 2 Refused
    - 5 still in progress

Refused 40 per cent from the completed cases
  - 2 Adverse Government check information or adverse intelligence
    - 55 cases in total
    - 35 Fully licensed
    - 8 Refused
    - 2 Granted with ALCs
    - 1 Cancelled
    - 9 still in progress

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<sup>1</sup> Some cases meet more than one criterion. There have been 86 mandatory inspections and 6 discretionary.

Refused 17 per cent or granted 76 per cent with a full licence from the completed cases

- 3 Where no information is held on the company or individuals on the application

30 Cases in total  
15 Fully licensed  
4 Refused  
2 Cancelled  
9 Still in progress

Refused 19 per cent or granted 71 per cent with a full licence so far from the completed cases.

- 5.8. A review of the grounds for submitting the application for a visit has confirmed that the physical inspections were justifiable and proportionate based against the criteria published in GLA Brief 28.
- 5.9. Of the six granted without a physical inspection, two have notified the GLA that they started trading in the GLA sectors. Adverse intelligence has been received against two of those licence holders granted a licence without inspection. The GLA is satisfied that the adverse information could not and would not have been gathered from a physical site visit and refers to alleged conduct sometime after the licences were granted. Four of those six applications are well established companies already trading in other sectors which can be seen as a form of Earned Recognition. The fifth and sixth companies were relatively recent set ups. However, from the information received from other Government departments, the GLA was satisfied that a licence could be granted without conducting a physical inspection.

## **6. Conclusion**

- 6.1 The results to date demonstrate an effective and robust process for determining whether Application Inspection is necessary and/or appropriate
- 6.2 Care needs to be taken in any further relaxation of the review criteria so as not to significantly increase the risk of licensing inappropriate applicants.

## **7. Financial Implications and Budget Provision**

- 7.1 The cost of revoking a licence is likely to be significantly greater than refusing a licence application. This is due to the additional work done by the GLA and partner agencies at all stages of the process. Since May 2012 only 36 percent of the appeals received by the GLA have been appeals against a refusal. Whereas significantly more appeals are received against a decision to revoke a licence. It should also be noted that the current appeal process allows a licence holder to continue to trade until the outcome of that appeal.

## **8. Organisational Risks**

- 8.1 Reducing the number of application inspections without clear criteria for doing so increases the risk of licensing businesses which should not hold a GLA licence and increase the potential exploitation of workers.
- 8.2 There may be reputational risks for the GLA if it is seen to be granting licences to applicants who fail to adhere to licensing standards and thereby unnecessarily expose vulnerable workers to potential exploitative practices

## **9. Policy Implications and Links to Strategic Priorities**

- 9.1 The inspection and licensing processes are the cornerstone of the framework to prevent rogue operators entering the licensing sector. Allowing a higher degree of risk, without additional sources of information to confirm compliance, could undermine the licensing regime and would reduce the preventative action of the GLA.

## **10. Background Papers and Relevant Published Documents**

GLA board paper 37/8.2

<http://www.gla.gov.uk/PageFiles/1111/GLA%2037%208.2%20GLA%20Consultation%20changes%20to%20Application%20and%20Licensing%20Proceduresdoc.pdf>

GLA Brief 28 <http://www.gla.gov.uk/PageFiles/1021/GLA%20Brief%20Issue%2028%20-%20final.pdf>

GLA board paper 41/12

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## Annex B

Application	Physical Inspection Required?	Reason	Final Licence Decision
1.	Yes	Mandatory inspection.  Adverse OGD information received regarding tax debts.	Licensed  Personal debt of Principal Authority was a small amount. Licensing Team decided it would have been disproportionate to refuse the application.
2.	Yes	Discretionary inspection.  Intelligence that a non-compliant expenses scheme was being operated. Also a concern about previous compliance record.	Licensed with ALC for Standard 6.3  There was evidence that PPE would not be provided free of charge. Licence conditional on free PPE being provided.  No evidence that the expenses scheme was non-compliant.
3.	Yes	Mandatory inspection.  Adverse OGD information received regarding possible NMW issues.	Licensed  No evidence of non-compliance identified.
4.	Yes	Discretionary inspection.  Initially wrote to the business requesting clarification of how business operated an expenses scheme. Decided to proceed to	Refused  PA lacked competency (including using a non-compliant expenses scheme with a

Application	Physical Inspection Required?	Reason	Final Licence Decision
		physical inspection on review of information received.	connected company). Still within period of time to appeal.
5.	Yes	Discretionary inspection. Non-compliant documentation submitted in support of application raised concerns about the PA's competence.	Licensed. Documentation compliant for inspection. PA demonstrated competency.
6.	Yes	Mandatory inspection. Shellfish gathering application. Submitted for physical inspection due to high risk nature of work.	Licensed. No non-compliances identified.
7.	Yes	Mandatory inspection. Intelligence of alleged connection to trafficking.	Licensed. No non-compliances identified.
8.	No	Discretionary decision not to visit. Minor issue with worker contract but no significant issues identified to justify a physical inspection.	Licensed with ALC for Standard 7.3. ALC to correct one clause in contract. ALC now cleared.
9.	Yes	Mandatory inspection. Intelligence business may be a 'front' for a third party and undeclared unspent conviction.	Refused. Failed to declare conviction without reasonable explanation and lacked

Application	Physical Inspection Required?	Reason	Final Licence Decision
			competency. No appeal submitted.
10.	No	Discretionary decision not to visit.  No issues identified to justify a physical inspection.	Licensed
11.	Yes	Mandatory inspection.  PA has criminal conviction for assault (related to domestic violence) and drugs offences. Also concern about level of competence.	Refused  Criminal convictions and lacked competency.  No appeal submitted.
12.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
13.	Yes	Mandatory inspection.  Applicant is connected to a business previously revoked.	Licensed.
14.	Yes	Mandatory inspection.  Adverse OGD information received regarding tax debts related to connected company.	Licensed.  Reasonable explanation provided for tax debts of previous company and current HMRC payments for new company are



Application	Physical Inspection Required?	Reason	Final Licence Decision
			up to date.
15.	No	Discretionary decision not to visit.  Minor issue with worker contract but no significant issues identified to justify a physical inspection.	Licensed with ALC for Standard 7.3.  ALC to correct contract. Evidence submitted to clear ALC being reviewed by the GLA Licensing Team.
16.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
17.	Yes	Mandatory inspection.  Physical inspection to assess links to unlicensed trading.	Refused.  Connections to another refused licence.  No appeal submitted.
18.	Yes	Mandatory inspection.  Linked to business previously revoked and intelligence connecting applicant to exploitative accommodation providers.	Licensed.  No non-compliances identified
19.	Yes	Mandatory inspection.  Individuals to businesses subject to GLA compliance and enforcement action.	Licensed.  No non-compliances identified.

Application	Physical Inspection Required?	Reason	Final Licence Decision
20.	Yes	Mandatory inspection.  Suspected unlicensed trading for a considerable period of time.	Licensed.  Warning letter issues no further non-compliance identified.
21.	Yes	Mandatory inspection.  Adverse OGD intelligence indicating business connected to other failed businesses.	Refused.  National Minimum Wage issues and lacked the requisite competency.  No appeal submitted.
22.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Cancelled. Applicant withdrew application.
23.	Yes	Mandatory inspection.  Intelligence indicating possible immigration offences.	Licensed.  No non-compliances identified.
24.	Yes	Mandatory inspection.  Allegations of historic multiple non-compliance with Licensing Standards.	Licensed.  No non-compliances identified.
25.	Yes	Mandatory inspection.	Licensed.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Adverse OGD information received regarding tax debts.	No non-compliances identified.
26.	Yes	Mandatory inspection.  Intelligence indicates possible links with non-compliant businesses.	Licensed.  Reasonable explanation provided for tax debts of previous company and current HMRC payments for new company were up to date.
27.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
28.	Yes	Mandatory inspection.  PA was previously determined not fit and proper (more than two years ago).	Refused.  Not fit and proper as failed to be candid and truthful.  No appeal submitted.
29.	Yes	Discretionary inspection.  Previously held a licence which had ALCs never cleared before it expired. Contract non-compliant	Licensed.  No non-compliances identified.
30.	Yes	Mandatory inspection.	Licensed.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Insufficient information held on company or individuals.	No non-compliances identified.
31.	No	Discretionary decision not to visit.  Minor issue with worker contract but no significant issues identified to justify a physical inspection.	Licensed with ALC for Standard 7.3.  ALC to correct contract.
32.	Yes	Mandatory inspection.  PA linked to revoked business.	Licensed.  No non-compliances identified.
33.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
34.	Yes	Mandatory inspection.  Adverse OGD information received regarding possible NMW issues.	Licensed.  No non-compliances identified.
35.	Yes	Mandatory inspection.  Intelligence alleging job-finding services conditional on using additional services.	Licensed.  Business stated services would not be provided.
36.	Yes	Mandatory inspection.	Cancelled. Applicant withdrew application.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Adverse OGD information received regarding tax debts.	
37.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Licensed. No non-compliances identified.
38.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Refused. Not competent to hold a licence. No appeal submitted.
39.	Yes	Mandatory inspection. Adverse OGD information received regarding tax debts.	Licensed. HMRC payments now up-to-date. No non-compliances identified.
40.	Yes	Mandatory inspection. Adverse OGD information received regarding tax debts.	Licensed. No non-compliances identified.
41.	Yes	Mandatory inspection. Connected to business with known non-compliances.	Licensed. No non-compliances identified.
42.	Yes	Mandatory inspection.	Refused. Not been candid and truthful and

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Connected to business with known non-compliances.	connections to companies in liquidation. Not competent to hold a licence  No appeal submitted.
43.	No	Discretionary decision not to visit.  No adverse intelligence and no issues with paper work. Business already trading in other sectors.	Licensed.
44.	Yes	Mandatory inspection.  Links to an unlicensed gangmaster and non-compliance with a GLA licensed business.	Licensed.  No non-compliances identified.
45.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
46.	Yes	Mandatory inspection.  Adverse government check information or adverse intelligence.	Licensed with ALCs for Standard 6.1, 7.3 and 7.4.  ALCs to put a health and safety agreement in place and to correct contracts.
47.	Yes	Mandatory inspection.	Inspection ongoing.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Adverse government check information or adverse intelligence.	
48.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Licensed. No non-compliances identified.
49.	Yes	Discretionary inspection. The contract with workers was not sufficient to meet the requirement of Standard 7.3.	Initially refused due to issues regarding a connected company. Licence granted on after GLA's review of the appeal.
50.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Licensed. No non-compliances identified.
51.	Yes	Mandatory inspection. Adverse OGD information regarding HMRC debts from a connected company.	Licensed. HMRC debt subject to agreement and being repaid.
52.	Yes	Mandatory inspection. Adverse OGD information regarding existing HMRC debts.	With the Licensing Team for a decision.
53.	Yes	Mandatory inspection. Insufficient information held on company or individuals. Small	Licensed. No non-compliances identified and

Application	Physical Inspection Required?	Reason	Final Licence Decision
		HMRC debt.	HMRC debt had been paid.
54.	Yes	Mandatory inspection. Adverse OGD information received regarding HMRC debts.	Licensed. No non-compliances identified.
55.	Yes	Mandatory inspection. Insufficient information held on company or individuals and connections to other licence applications.	Refused. Did not show sufficient competency to hold a licence. No appeal submitted.
56.	Yes	Mandatory inspection. Intelligence held about connections to other GLA licence holders.	Licensed. No non-compliances identified.
57.	Yes	Mandatory inspection. Intelligence held about connections to other GLA licence holders.	Licensed. No non-compliances identified.
58.	Yes	Mandatory inspection. PA linked to a previously revoked licence.	Refused. Did not show sufficient competency to hold a licence.



Application	Physical Inspection Required?	Reason	Final Licence Decision
			Appeal received and in progress.
59.	Yes	Mandatory inspection.  Current connected licensed business had not been inspected for over 7 years.	Licensed.  No non-compliances identified.
60.	Yes	Mandatory inspection.  Adverse intelligence held and OGD information received.	Licensed.  No non-compliances identified.
61.	Yes	Mandatory inspection.  Adverse OGD information received regarding HMRC debts.	Licensed.  No non-compliances identified, HMRC debt had been repaid.
62.	Yes	Mandatory inspection.  Intelligence held about connections to other GLA licence holders.	Licensed.  No non-compliances identified.
63.	Yes	Mandatory inspection.  Insufficient information held on company or individuals and connections to other licence applications.	Licensed.  No non-compliances identified.
64.	Yes	Mandatory inspection.	Refused.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Insufficient information held on company or individuals.	Did not show sufficient competency to hold a licence.  Time to appeal not yet expired.
65.	Yes	Mandatory inspection.  Adverse OGD intelligence indicating business connected to other failed businesses.	Licensed.  No non-compliances identified.
66.	Yes	Mandatory inspection.  Adverse OGD intelligence indicating business connected to other failed businesses.	Application on hold.
67.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
68.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Cancelled, application withdrawn by applicant.
69.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.

Application	Physical Inspection Required?	Reason	Final Licence Decision
70.	Yes	Mandatory inspection.  Adverse OGD information received regarding HMRC debts for a connected company.	Licensed.  Reasonable explanation provided for tax debts of previous company and current HMRC payments for new company were up to date.
71.	Yes	Mandatory inspection.  Adverse OGD information received regarding HMRC debts for a connected company. Also connections to a revoked GLA licensed company.	Inspection report currently being considered by the GLA Licensing Team.
72.	Yes	Mandatory inspection.  Adverse OGD information received regarding connection to a company with HMRC debts.	Licensed.  No non-compliances identified.
73.	Yes	Mandatory inspection.  Intelligence held about connections to other GLA licence holders.	Licensed.  No non-compliances identified.
74.	Yes	Mandatory inspection.  Insufficient information held on company or individuals other than connection to another GLA licence holder not inspected	Licensed.  No non-compliances identified.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		since 2010.	
75.	Yes	Mandatory inspection.  Insufficient information held on company or individuals and not registered with HMRC.	Licensed.  No non-compliances identified.
76.	Yes	Mandatory inspection.  Allegations of non-compliance whilst named on another licence.	Licensed.  Allegations unproven and no non-compliances identified.
77.	Yes	Mandatory inspection.  Issues regarding the identity of the proposed Principal Authority.	Licensed.  No issues identified.
78.	Yes	Mandatory inspection.  Intelligence suggested that the proposed Principal Authority was a front for someone considered not fit and proper. Information and paperwork provided suggested competency issues.	Refused.  Being influenced by someone not considered fit and proper and did not show sufficient competency to hold a licence.  Time to appeal not yet expired.
79.	Yes	Mandatory inspection.  Adverse OGD information regarding HMRC debts from a	Licensed.  No issues identified. HMRC debt a very

Application	Physical Inspection Required?	Reason	Final Licence Decision
		connected company.	low level and a reasonable explanation provided.
80.	Yes	Mandatory inspection. Suspected unlicensed trading.	Licensed. No issues identified.
81.	Yes	Mandatory inspection. Connection to a previous GLA licensed company that had ceased trading with no explanation.	Awaiting inspection.
82.	Yes	Mandatory inspection. Intelligence suggests the use of a travel and subsistence scheme.	Awaiting inspection.
83.	Yes	Mandatory inspection. Previous non-compliance regarding connected GLA licensed companies and unlicensed trading.	Inspection report currently being considered by the GLA Licensing Team.
84.	Yes	Mandatory inspection. Intelligence held about connections to other GLA licence holders and previous non-compliance.	Awaiting inspection.

Application	Physical Inspection Required?	Reason	Final Licence Decision
85.	Yes	Mandatory inspection.  Adverse OGD information received regarding previous HMRC debts.	Awaiting inspection.
86.	No	Business was restructuring and no information held to warrant a physical inspection.	Licensed.
87.	Yes	Mandatory inspection.  Possible links to non-compliance businesses.	Licensed.  No issues identified.
88.	Yes	Discretionary inspection.  Paperwork submitted suggests non-compliance.	Awaiting inspection.
89.	Yes	Mandatory inspection.  Adverse OGD information regarding HMRC debts from a connected company.	Awaiting inspection.
90.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Awaiting inspection.
91.	Yes	Mandatory inspection.	Awaiting information from the business

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Insufficient information held on company or individuals.	before inspection allocated.
92.	Yes	Mandatory inspection. Insufficient information held on company or individuals and high risk work proposed.	Awaiting inspection.
93.	Yes	Mandatory inspection. Insufficient information held on company or individuals and connection to someone not considered fit and proper.	Awaiting inspection.
94.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Awaiting inspection.
95.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Awaiting inspection.
96.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Awaiting inspection.
97.	Yes	Mandatory inspection. Insufficient information held on company or individuals and	Awaiting inspection.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		linked to someone considered not fit and proper.	
98.	Yes	Mandatory inspection. Linked to someone considered not fit and proper.	Awaiting inspection.
99.	Yes	Mandatory inspection. Adverse Government check information or intelligence.	Awaiting inspection.
100.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Awaiting inspection.
101.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Awaiting inspection.