



Gangmasters Licensing Authority

GLA38/13

Review of the GLA approach to the Agency Worker Regulations

17 July 2013

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1. Purpose of the Report

- 1.1. At its April 2012 meeting, as part of the most recent review of the Licensing Standards, the Board agreed the GLA's approach for compliance matters under the Agency Worker Regulations ("AWR"). It was also agreed that the approach would be reviewed after 12 months.

2. Recommendation

- 2.1. The GLA should continue the approach agreed at the April 2012 Board meeting.

3. Reasons for Recommendation

- 3.1. At the April 2012 meeting, the following approach was agreed:
 - (i) Where a GLA inspector identifies breaches of the AWR:
 - If the breach appears to affect compliance with the licence, the GLA will require an explanation from the licence holder about issues to AWR.
 - The GLA will ensure that both the Gangmaster and workers are aware of their responsibilities and rights and individuals are aware of methods of redress.
 - Depending on the response received, the GLA may consider attaching a specific condition against the relevant Standard stipulating the identified matters be corrected within a specified period of time (this approach of attaching a condition for AWR matters includes issues related to pay covered by the Critical 3.3). Any decision to attach such a condition would have a right of appeal.
 - (ii) Other relevant matters to the AWR include:
 - Where an Employment Tribunal makes a ruling against a licence holder for AWR matters, the licence holder should notify the GLA within 20 working days of that decision. The GLA will then consider the specific circumstances of that decision and whether it should be considered a breach of the licence.
 - Where there is evidence of deliberate exploitation and persistent non-compliance with the licence, the GLA has the option to apply a 'fit and proper' test to any licence holder.

- 3.2. Following the Board meeting, the GLA published a Brief explaining the Authority's position. The published Brief at annex A.
- 3.3. Reports to the GLA of problems related to the AWR are rare. Over the previous 12 months, on average approximately one intelligence report of possible non-compliance is received per month. The intelligence received has not been considered to be a priority for an inspection when assessed against other cases. Consequently no inspections have been tasked on the basis of AWR issues. However, in response to information received, points have been clarified by contacting the labour providers concerned to request an explanation. They have all been minor issues and the GLA has been satisfied with the responses it has received. One worker made a series of allegations about a labour provider not complying with the AWR. Unfortunately, the worker did not respond to a request to be interviewed by a GLA inspector – no further action has been taken by the GLA.
- 3.4. Inspections conducted by the GLA for other purposes have identified widespread use of pay between assignments contracts. Some contracts seen have been poorly drafted and are either confusing or contradictory. However, no actual non-compliances have been identified in such cases, although the GLA has advised the licence holders concerned to review and update their contracts.
- 3.5. No systematic non-compliance with AWR requirements by an individual licence holder has been identified by the GLA. No licences have been revoked or had Additional Licence Conditions attached due to issues related to the AWR.

4. Summary of Key Points

- 4.1. Notwithstanding the wider effect the AWR may have had on the industry, the AWR has not had a significant impact on the work of the GLA. Other matters continue to be the focus and priority of investigations conducted by the Authority.
- 4.2. The GLA does not consider a change in its approach to AWR related matters is necessary. As with other issues covered by the licensing scheme, the GLA will continue to monitor the level of risk associated with AWR matters which are applicable to the GLA Licensing Standards. Should an increased level of risk be identified, the GLA will review its operational approach accordingly.

5. Financial Implications and Budget Provision

- 5.1. There are no financial implications.

6. Organisational Risks

- 6.1. Not applicable.

7. Policy Implications and Links to Strategic Priorities

7.1. Not applicable.

8. Details of Consultation/EQIA

8.1. Not applicable.

9. Background Papers and Relevant Published Documents

9.1. Relevant documents:

- Board Paper GLA 33 8.1 "Licensing Standards Review"
- GLA Brief 22 "Agency Worker Regulations"

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