



Gangmasters
Licensing Authority

GLA38/17 Liaison Group Update

17 July 2013

BOARD PAPER REFERENCE – GLA38/17 LIAISON GROUP UPDATE**1. Purpose of the Report**

1.1 To update the Board on the work of the liaison groups

2. Recommendation

2.1 The Board is invited to note the draft minutes of the Labour User/Labour Provider Liaison Group meeting held on 18 April, 2013. The minutes are attached at Annex A.

Annex A**GLA Labour Provider and Labour User Liaison Group Meeting****18 April 2013 - Nottingham****MINUTES****ATTENDEES**

GLA Representatives: Margaret McKinlay (Chair), David Nix, Paul Broadbent.

Labour Provider Representatives: David Camp (ALP), Ben Farber (REC), Julie Giles (ExtraPersonnel), Terry Godfrey (Gangmasters Alliance), Chris Gorton (Heads), Kevin McCormick (KHS Personnel Ltd), Matthew Pearl (Red Rock Partnership), David Segust (First Call Contract Services); Terry Waite (Vital Recruitment), Joanne Young (GI), Harjit Padda (Fusion Personnel),

Labour User Representatives: Hayley Cambell-Gibbon (NFU), Tom Easson (Ringlink Scotland), Jayne Garner, Sian Thomas (FPC), Fergus Morgan (2SFG), James Potter (NFU), Shayne Tyler (Manor Fresh).

Apologies: Marshall Evans (Staffline), Colin Hall (50 Club), Doug Mitchell (Forestry), Nigel Jenney (FPC), Claire Joyce (Langmead Farms), Wendy Woolfe (Lincs FP), Sarah Brooksbank (Industrious), Jon Tugwell (Fyffes), Rafiq Chohan (Goldteam), Tracey Clark (Vion), Tony Boorman (Stafforce), Jane Fielden (OSR Recruitment Services Ltd), Sharon Cross (NFU/G's), Sue Hall (Winchester Growers).

MINUTES

1. Declarations of interest - None
2. Minutes of last meeting - No adjustments to previous minutes were requested.
3. Outstanding Actions

Meeting	Action	Comment
7/7/11	GLA to review media policy and stakeholder communication and to consider whether short and frequent releases should be made to the GLA Brief	19/4/12 - MM accepted that GLA was not where it would like to be on Communications and would take personal ownership of this. DC reiterated that the focus should be on providing ongoing stakeholder communication.

	distribution list.	<p>12/7/12 – As yet no change to GLA media and stakeholder communication policy. GLA has made case to Defra for new Press & Communications Officer.</p> <p>18/7/12 – As yet no change to GLA media and stakeholder communication policy. GLA Communications & Media Officer role approved. Recruitment commenced.</p> <p>18/1/13 - GLA Communication & Media Officer appointed. GLA CEO to consider GLA media and communication policy as part of strategy review.</p> <p>18/4/13 – GLA has committed in 2013-16 Strategic Plan to “improve communication at all levels and will provide timely and relevant information as well as harnessing new techniques for reaching a wide range of groups in our communities.”</p>
7/7/11	GLA to work with industry representatives and trade associations to explain its scope across “grey areas”. N.B. To include GLA position on voluntary disclosure of unlicensed activity	<p>19/4/12 - Initial meeting with working group took place on 19 January. The scope of the GLA would be one of the areas considered under the RTC. Following the RTC outcome further work would be needed to clarify the scope and to draft amended Exclusion Regulations.</p> <p>GLA will take a proportionate view when there is voluntary disclosure of unlicensed activity. When, in the view of the GLA there was a genuine and reasonable unawareness of the need to be licensed and there was no worker exploitation or tax evasion then it may not result in prosecution, and may be classed as “voluntary disclosure”. The law says it is illegal to supply labour without a licence so whether the business decided to continue to trade is a risk for it to decide. The GLA does not have a ‘stop’ power. It is also an issue for a labour user who is using an unlicensed supplier. The GLA will consider the impact on workers of any decision it makes in a Community Impact Assessment</p> <p>24/7/12 – RTC has concluded that activities or sectors which are low risk, including: apprenticeships, forestry, cleaning contractors, land agents and voluntary workers will be removed from scope of the GLA. This will require consultation and amendment to the Exclusion Regulations which is a Defra responsibility.</p> <p>18/10/12 – GLA has updated Investigations and Inspections webpage to explain approach when there has been voluntary disclosure of unlicensed activity.</p> <p>GLA to email working group that met in January to collate “grey areas” requiring clarification whether they are in or out of</p>

		<p>scope. This to inform forthcoming consultation on amendments to Regulations on removal of low risk sectors and activities identified in RTC.</p> <p>18/1/13 – GLA action from 18/10 now not to take place before Defra consultation. Defra to shortly issue consultation on removal from scope of “low risk” activities and amendments to the Exclusion Regulations. ALP requested GLA to provide a full definition of “supplies a worker” as contained in Reg 4 (2) as part of process to clarify scope.</p> <p>18/4/13 – To be considered as part of Defra consultation</p>
7/7/11	<p>GLA to produce guidelines regarding release of information to retailers as part of Retailer/Supplier protocol and discuss with FPC/ALP</p> <p>18/1/13 - GLA to propose how it wishes to progress the supply chain protocol</p>	<p>19/4/12 – The draft Retailer/Supplier protocol was still under discussion and legal advice was being sought on release of information to labour users and retailers whilst an investigation was ongoing.</p> <p>12/7/12 – GLA still taking legal advice.</p> <p>18/10/12 – The matter of release of market sensitive/ confidential information to retailers as part of protocol is addressed in the GLA External Communications Policy (see below).</p> <p>18/1/13 – GLA to produce revised Supply Chain Protocol and review with stakeholders.</p> <p>18/4/13 – GLA CEO to review revised Supply Chain Protocol</p>
19/4/12	<p>GLA to consider ALP request to update the press release policy to cover general principles on confidentiality and releasing information to cover Press Releases, FOI requests, release of information as contained in the Suppliers and Supermarket Protocol and by Inspectors during investigations.</p>	<p>12/7/12 - GLA considering this request.</p> <p>18/10/12 – This has been addressed through the GLA External Communications Policy which was submitted to the GLA Board on 17/10/12 and whose comments are being incorporated. GLA confirmed they would name LU in press article where they had been complicit in negligence or conversely where they had contributed to control. In response to an issue raised regarding press photography policy, GLA said that it would continue to proactively engage with press. GLA to consider if External Communications Policy is sufficiently explicit on press relations.</p> <p>18/1/13 – GLA stated that the External Communications Policy was a work in progress and would be reviewed by the CEO. ALP confirmed that it would submit comments on the policy for the GLA to consider.</p> <p>18/4/13 –ALP has submitted comments on the External Communications Policy and discussion has occurred, with minor amendments, and a version to be published being with GLA.</p>
19/4/12	<p>GLA measurement and publishing of outcomes</p>	<p>12/7/12 - Further discussion at next meeting once GLA have developed their position on</p>

		<p>performance measurement and reporting.</p> <p>18/10/12 – Position as above</p> <p>18/1/13 – GLA CEO to consider as part of strategy review.</p> <p>18/4/13 – GLA CEO confirmed that the new GLA Strategic Plan will be underpinned by a range of outcome based performance indicators.</p>
12/7/12	<p>GLA to update Inspection Information Sheet to include how closing meetings will operate</p>	<p>18/10/12 – Done. GLA to issue a Brief on issue of summary of findings.</p> <p>18/1/13 – GLA Brief on issue of summary of findings outstanding.</p> <p>18/4/13 – GLA has issued Brief 26 which states “When the inspector has completed the review of the standards they will ensure that the labour provider is left in no doubt as to the preliminary findings, which may feature in the licence decision.” MATTER CLOSED</p>
18/10/12	<p>ALP to write to retailers to express concern and request supermarkets to exert influence on supply chain.</p> <p>GLA to consider issuing a Brief on Charge Rates</p> <p>NFU/FPC to consider communicating with their members regarding risk of being complicit where impossibly low charge rates are paid.</p> <p>Group to consider how BRC/ETI/Sedex audits can contain standard set of questions on charge rates.</p>	<p>18/1/13</p> <p>ALP has written to all retailers. ALP is in discussion with Sedex for auditors to include questions on charge rates.</p> <p>GLA has not yet updated its Brief on Charge Rates. ALP requests that GLA issues revised Brief each time NMW changes.</p> <p>NFU/FPC have not communicated with their members</p> <p>18/4/13 – GLA to consider updating its Brief on Charge Rates each time NMW changes.</p> <p>NFU confirmed that it informs its members regarding payment of rates that allow legal obligations to be complied with.</p>
18/10/12	<p>Liaison Group to discuss future format / timing / terms of reference of the meeting</p>	<p>18/1/13 – Meetings will continue as currently planned. GLA CEO to consider as part of strategy review.</p> <p>18/4/13 – There was discussion around the best timing of the meeting in relation to the GLA Board meetings. This to be considered further by the GLA.</p>
18/1/13	<p>Request for a GLA Brief on the Active Check process</p>	<p>18/1/13 – GLA agreed that this would be worthwhile. DN to prepare a draft Brief.</p> <p>18/4/13 - GLA has issued Brief 27. MATTER CLOSED</p>
18/1/13	<p>Collaborative project to develop best practice project for dealing with cases of “hidden worker exploitation” such as control/extortion of workers by third parties.</p>	<p>18/1/13 – GLA supported aims of the project and would consider how it could be involved once CEO has had opportunity to review strategy and priorities. Shayne Tyler, Manor Fresh and Fergus Morgan, 2SFG confirmed their willingness to continue their involvement in this project.</p> <p>18/4/13 – Project lead development partners</p>

		will be ALP, Migrant Help and the GLA. NFU confirmed their desire to be involved.
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4. Update on the outcome of the GLA Application and Inspections Consultation
MM confirmed that the GLA Board discussed the proposals in the Consultation at the April 17th meeting

Longer licensing periods for compliant labour providers was supported by the GLA Board.

There would be further consideration of the circumstances in which an Application Inspections might not be required based on an evaluation of risk.

The GLA will establish a review group to consider whether industry audits can assist as a co-regulatory approach to be considered as "earned recognition" and reduce inspection burdens where appropriate and the establishment of an accreditation process of approved audit schemes and auditors that meet the GLA's minimum inspection requirements.

There would be further consideration around whether the public register and active check notifications should be enhanced to include details of additional licence conditions and where licences are "revoked without immediate effect" and are subject to appeal.

5. Update on GLA Strategic Plan 2013-16

PB confirmed that the GLA Board had approved the GLA Strategy - Working in Partnership To Protect Vulnerable and Exploited Workers 2013 – 2016 at the previous day's Board Meeting. Once final amendments had been made the new strategy would be formally launched.

6. Active Check Process

- a. Comments on GLA Brief from Group. Does GLA track how many recipients open Briefs?
No comments from Group. GLA unable to track how many recipients open Briefs.
- b. What are the measures for demonstrating the use of the 'Active Check'?
Targets and numbers published on the GLA website would be a positive step.
GLA will consider this area
- c. 14 out of 41 West Midlands businesses are showing as 'New Business' on GLA website. By definition none of these should have a 'Labour User' conducting an 'Active Check'. Does GLA cross-reference 'Active Check v 'New Business' Licensed Companies?
GLA does not currently cross-reference.

7. GLA Brief 26 – "The Inspection Process" - Comments on Brief from Group and GLA position on external advisors at Application and Compliance Inspections.

GLA confirmed that where organisations want an external advisor present at a compliance interview the inspector will establish what the Principal Authority knows, is able to answer, and how they discharge control, before considering whether to obtain the answers from the external advisor. GLA inspector will need to ascertain the extent to which the Principal Authority can independently answer and not be led or briefed as to what to say.

8. Prepaid Cards – Request for GLA Brief on methods of use that may contravene licensing standards – particularly in light of expected upturn in use with Romanian and Bulgarian workers.

ACTION - DN to prepare a draft Brief.

9. ALP Survey on GLA

ALP advised that it would be issuing a survey to gather labour provider perceptions of the GLA. The GLA advised that it will be responsible for a customer survey (NB: It is also a proposal from the Better Regulation Executive that regulators issue regular surveys – draft compliance code consultation). The survey questions repeat those used in a 2011 ALP survey and a 2008 Universities of Liverpool and Sheffield survey in order to identify patterns.

10. Request to review GLA Appeals Mechanism to achieve lower cost, less burdensome, fairer process.

The ALP advised that it had responded to the Government consultation on reviewing regulatory appeals mechanisms to identify the potential to improve existing mechanisms and to seek alternative, less expensive and time consuming routes that offer means of informal, internal dispute resolution, particularly in less serious cases. Specifically the ALP has made four recommendations:

Recommendation 1 - GLA Inspectors should always hold a "summary of allegations" wrap up at the end of an inspection at which they highlight issues uncovered which may be potential breaches of the licensing standards. N.B. The GLA has now addressed this point as detailed in GLA Brief 26.

Recommendation 2 – Prior to submitting the Inspection Report to the GLA Licensing Team, the GLA Inspector should provide a copy of the written report to the labour provider and allow a period of two weeks for the labour provider to respond in writing. This reduces the scope for error and misunderstanding and reduces the number of cases that will go to formal appeal.

Recommendation 3 – The licensing decision should be issued within four weeks of an inspection visit (or end of response period if Recommendation 2 is adopted) or an interim notification provided.

Recommendation 4 – There should be a period of four weeks whereby the labour provider can submit evidence and enter into discussions with the GLA regarding the findings of the case. This reduces the scope for error and misunderstanding and reduces the number of cases that will go to formal appeal.

REC confirmed their support for these recommendations.

ACTION - GLA to consider these proposals.

11. How can we encourage much more open collaboration and wholesale data sharing between individual labour providers, labour users and the GLA?

PB advised that it was central core of the new GLA strategy to work in partnership with stakeholders to protect vulnerable and exploited workers. He will review this matter as part of his review of the Supply Chain Protocol and may wish to have further discussions with Liaison Group members

12. Next meetings: TBC following consideration of best timing for meeting in relation to the GLA Board

The meeting was closed.

Report Author: Jennifer Clarke

Senior Responsible Officer: Darryl Dixon