



Gangmasters
Licensing Authority

GLA39/17 Liaison Group Update

16 October 2013

Board Paper Reference – GLA39/17 – 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 22 August, 2013. The minutes are attached at Annex A.

Annex A

GLA Labour Provider and Labour User Liaison Group Meeting

22 August 2013 - Nottingham

DRAFT MINUTES

ATTENDEES

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

Labour Provider Representatives: Tony Boorman (Stafforce), David Camp (ALP), Ben Farber (REC), Jane Fielden (Agentis Solutions Ltd), Julie Giles (ExtraPersonnel), Terry Godfrey (Gangmasters Alliance), Chris Gorton (Heads), Kevin McCormick (KHS Personnel Ltd), Nigel Stabler (Prestige Recruitment), Terry Waite (Vital Recruitment), Joanne Young (GI),

Labour User Representatives: Sharon Cross (NFU/G's), Tom Easson (Ringlink Scotland), James Potter (NFU), Sian Thomas (FPC), Jon Tugwell (Fyffes), Shayne Tyler (Manor Fresh).

Apologies: Tracey Clark (Vion), Hayley Cambell-Gibbon (NFU), Jayne Garner, Colin Hall (50 Club), Sue Hall (Winchester Growers), Nigel Jenney (FPC), Claire Joyce (Langmead Farms), Doug Mitchell (Forestry), Fergus Morgan (2SFG), Wendy Woolfe (Lincs FP), Sarah Brooksbank (Industrious), Rafiq Chohan (Goldteam), Harjit Padda (Fusion Personnel), Matthew Pearl (Red Rock Partnership), David Segust (First Call Contract Services)

MINUTES

1. Declarations of interest – Licence Holders – fees.
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 distribution list.	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. 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>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> <p>22/8/13 – GLA communication strategy in place. MATTER CLOSED</p>
7/7/11	<p>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>	<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. 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. GLA to email working group that met in January to collate “grey areas” requiring clarification whether they are in or out of 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> <p>22/8/13 – Guidance to be issued to accompany amended Exclusions Regulations following Defra</p>

		Consultation
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> <p>22/8/13 – Revised Protocol to be issued in draft form for comment</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 some amendments, and a version to be published being with GLA.</p> <p>22/8/13 – Action as per previous meeting</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 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> <p>22/8/13 – Strategic Plan with underpinning KPIs issued. 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</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. 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>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>18/4/13 – 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> <p>22/8/13 – GLA to update Charge Rates Brief when NMW changes. MATTER CLOSED</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> <p>22/8/13 – GLA CEO tabled a new format for future Liaison Group meetings which was agreed by the members.</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 will be ALP, Migrant Help and the GLA. NFU confirmed their desire to be involved.</p> <p>22/8/13 – DC advised that this was on target for launch in October</p>
18/4/13	<p>Prepaid Cards</p>	<p>18/4/13 GLA to prepare Brief on methods of use that may contravene licensing standards.</p> <p>22/8/13 – As per previous meeting</p>
18/4/13	<p>GLA to consider ALP proposals to review GLA Appeals Mechanism.</p>	<p>18/4/13 - ALP Recommendation 1 - GLA Inspectors should always hold a “summary of allegations” wrap up at the end of an inspection. GLA Response - Accepted and implemented in GLA Brief 26.</p> <p>ALP 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. GLA Response - Rejected as this “will do nothing more than elongate the process and, in the opinion of the GLA, add another layer of bureaucracy”.</p> <p>GA highlighted a dispute over contemporaneous notes. REC proposed that meetings being recorded to be referred to in event of dispute. GLA to look at number of cases where there has been dispute over meeting records.</p> <p>ALP Recommendation 3 – The licensing decision should be issued within four weeks of an inspection visit or an interim notification provided. GLA Response - Accepted and “Once an inspection report has been submitted to the Licensing team for review, a holding letter will be sent if a decision cannot be made within 5 working days. We will continue to work on ensuring that the time from inspection to completion of the inspection</p>

		<p>report, to submission, is done in the shortest time period possible.”</p> <p>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. GLA Response - Rejected as this “introduces another appeals process before a formal appeal and is overly bureaucratic in a system that already affords the labour provider the opportunity to comment during the inspection.”</p> <p>20/6/13 GLA response to ALP proposals issued CLOSED</p>

4. Discretionary Application Inspections – Update regarding the Inspection Allocation Process and the risk assessment process including types of other evidence, information and intelligence which deem the site visit unnecessary.
ACTION - GLA to provide update at next meeting.
5. GLA Application Fees - GLA has stated that “All new applicants with the exception of forestry only applicants will continue to be required to pay an application inspection fee. The application inspection fee is non-refundable.” However this is contrary to the Ministerial Statement “Remove the general requirement for an inspection and associated fee when businesses apply for a GLA licence”. It also appears contrary to the Treasury Rules on fees. How are the level of GLA Application fees to be reviewed?
ACTION - GLA Chair has asked the GLA CEO to prepare a paper on proposals regarding fees. Input to this may be provided by group members to the GLA CEO.
6. Licence Fees – Licence renewals will be extended to three years with caveats. What will be the impact on licence fees? When and how will this be decided?
As 5 above.
7. Work finding fees – The requirement to pay work finding fees is often linked to other forms of worker exploitation. The requirement to pay work finding fees (particularly through overseas labour suppliers) still seems to be relatively common place yet there have been no revocations where this has been named as the reason. What action are the GLA taking to end this practice in the sector? Does a UK based labour provider that uses a licensed overseas labour provider to source workers breach licensing standard 7.1, where the overseas labour provider charges the worker.

Liaison group members also mentioned that they had seen the emergence of “end of season fees” in order to guarantee being offered work for the following season.

GLA confirmed that a UK based labour provider that uses a licensed overseas labour provider to source workers is not in of breach licensing standard 7.1, where the overseas labour provider charges the worker.
8. GLA Public Register will be enhanced to show licence holders with cases at appeal - as “under appeal” once the GLA has submitted its response to the notice of appeal. ALP has concerns re natural justice and commercial implications but appreciates that GLA has taken this decision following legal advice. When is it likely to be implemented?
ACTION – GLA to confirm date once this is known
9. There is confusion regarding the nature of GLA officers’ visits to licence holders. ALP requests that this is clarified in a GLA Brief; Compliance CoP and SOPs. GLA officer should state purpose at the start of the visit i.e. is it a Compliance Inspection or an Investigation. The document “GLA Inspections Explained” should be updated and retitled “GLA

Inspections and Investigation Visits Explained". The document should make clear that if it is an Investigation Visit that there will be no summary of findings at the end of the visit; that there will be no report submitted to the GLA Licensing Team and if there are matters uncovered that necessitate follow up that there may in future be a Compliance Inspection.

Widespread agreement from labour providers that this was a real issue.

ACTION – Mark Heath to review and consider appropriate action.

10. The GLA has made public reference to licence holders that operate different regimes – for example with regard to tax relief schemes – within and without the sectors regulated by the GLA. What power/scope does the GLA have to take into account actions undertaken outside of the GLA sector when considering a licence holders compliance with the licensing standards?

GLA confirmed that they may take into account actions undertaken outside of the GLA sector when considering whether a licence holder is acting in a fit and proper manner to hold a GLA licence. The GLA treats each case individually, taking account of the seriousness of, and circumstances surrounding the matter in question.

11. Outcome of Defra Consultation – Impact on Terms of Reference for the LP/LU Liaison Group

ACTION – To review following outcome of Defra Consultation and proposals on governance. GLA CEO format for next meeting agreed.

12. Performance and Insight Report – Issue and use of by LP/LU Liaison Group

ACTION – GLA to refine detail to see what can be shared at the next meeting.

13. Licence suspension – This has the same effect as revocation with immediate effect. Assurance that it is to be used in such circumstances.

GLA confirmed this to be so.

14. Regulators' Code and the Accountability for Regulator Impact scheme – How will GLA work with stakeholders towards alignment with these?

GLA confirmed that they were already working in accordance with the new Regulators Code.

15. Agricultural Wages Boards – Confirmation that GLA will continue to inspect against terms that apply in Northern Ireland, Scotland and Wales.

GLA confirmed this to be so.

16. Any other business

Margaret McKinlay advised of a forthcoming Defra Triennial Review

17. Next meetings: To be confirmed

Report Author: Jennifer Clarke