

# GLA 34/10.2

## Minutes of GLA Board Liaison Groups

11 July 2012

**BOARD PAPER REFERENCE – GLA 34/10.2– Minutes of GLA Board Liaison Groups**

Issue

1. To update the Board on the work of the GLA Board Liaison Groups.

Recommendation

2. The Board is invited to note the minutes of the Labour User/Labour Provider meeting.

Background

3. The Labour Provider/Labour User group met on 19 April 2012. Draft minutes of the meeting are attached at Annex A.

**Annex A**

**GLA Labour Provider and Labour User Liaison Group Meeting**

**19 April 2012 - Nottingham**

**MINUTES**

**ATTENDEES**

**GLA Representatives:** Margaret McKinlay (Chair), Darryl Dixon, David Nix, Nicola Ray.

**Labour Provider Representatives:** David Camp (ALP), Stephen Brewis (Blue Arrow), Terry Godfrey (Gangmasters Alliance), Chris Gorton (Heads), Ben Farber (REC), Adrian Birdsey (Staffline).

**Labour User Representatives:** Tom Easson (Ringlink Scotland), James Potter (NFU), Jon Tugwell (Fyffes), Shayne Tyler (Manor Fresh), Sian Thomas (FPC), Fergus Morgan (2SFG), Tracey Clark (Vion)

**Apologies:** Mark Boleat (ALP), Marshall Evans (Staffline), Colin Hall (50 Club), Doug Mitchell (Forestry), Tina Rutter (Emmetts UK), Sarah Edwards (Emmetts UK), Nigel Jenney (FPC), Claire Joyce (Langmead Farms), Wendy Woolfe (Lincs FP), Hayley Cambell-Gibbon (NFU), Sarah Brooksbank (Industrious). Joanne Young (GI), Sharon Cross (NFU/G's),

**MINUTES**

1. Declarations of interest - None
2. Minutes of last meeting - No adjustments to previous minutes were requested.
3. Previous 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.
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 there would be no criminal prosecution. 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>
7/7/11	GLA to produce guidelines regarding release of information to retailers as part of Retailer/Supplier protocol and discuss with FPC/ALP	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.

#### 4. Active Check process (ref Board Paper 32 8/1)

The GLA Active Check letters issued to labour users had been updated following discussion with the ALP with the intention to make them clearer to avoid possible confusion. These were issued to the Liaison Group and no further comments raised. These updated letters would be used by the GLA in future.

#### 5. GLA General principles on confidentiality and releasing information

ALP commented that concerns regarding breaches of confidentiality had been raised at the Liaison Group meeting on 7<sup>th</sup> July 2011. ALP also stated that there were concerns regarding proposed release of information to labour users and retailers during investigations which were ongoing.

ALP requested that GLA produce and publish their 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. This would entail updating the GLA Press Release policy to become a wider document encompassing these other areas.

**ACTION - GLA to consider ALP request to update the press release policy to cover general principles on confidentiality and releasing information.**

#### 6. Transport Safety, Insurance and Provision

A general discussion took place regarding the safety standards of vehicles used to transport workers to and from work. The consensus was that the net effect of GLA compliance activity and HMRC policy on regarding deductions for transport from wages as taking pay below national minimum wage was to drive the provision of transport underground. Many labour providers had completely withdrawn from providing transport or had significantly reduced their provision. Where labour providers continued to provide transport the standard of vehicles had improved. However in many cases vehicles had been sold to workers or workers otherwise made their own arrangements. In these cases the vehicles were often unsafe and drivers not correctly licensed.

**ACTION – GLA confirmed that it would monitor feedback from operations on vehicle safety and report back at the next meeting.**

The ALP alerted the GLA to the difficulties labour providers experience in sourcing hire or reward insurance. Often it is not available or is prohibitively expensive. Many insurance providers do not consider that hire or reward insurance is required for the transport service labour providers offer to their workers. The ALP had written separately to the GLA stating that if a labour provider has notified the insurance provider in writing of the transport service provided and the insurance provider accepts that "passenger liability" is covered and that this is specifically stated within the insurance schedule and transport services are provided in accordance with this then this should be acceptable as satisfying the relevant insurance requirement under Licensing Standard 6.4.

**ACTION – GLA confirmed that they will take further advice from VOSA on this matter and when received issue a Brief to confirm its position.**

#### 7. GLA measurement and publishing of outcomes

ALP raised that since its formation the GLA has not been able to demonstrate through KPI's and performance measures its effectiveness in achieving its mission of reducing worker exploitation. In its 2011 operating plan the GLA made a commitment to measure and report its performance in terms of "outcomes" i.e. what it has achieved, rather than "outputs" i.e. what it has done.

MM confirmed that it is a significant challenge to gather quantitative data to accurately reflect the difference and the improvement that the GLA has made. It is relatively straightforward to gather basic KPIs regarding inspections and findings and to provide qualitative data. However there are problems about claiming benefit, for instance tax savings where a multi-stakeholder operation has been undertaken. There is also a real challenge of how to measure reduction in worker

exploitation. There is information which could be issued such as number of complaints received, volumes of how much each standard is being failed etc. MM advised that this is an area which is being considered further by the GLA in the formation of its future strategy.

The Liaison Group offered its willingness to support the GLA in development of appropriate measures and KPIs.

**ACTION – Further discussion at next meeting once GLA have developed their position on performance measurement and reporting.**

8. 'Pay day by pay day' tax relief

REC raised the issue stating that employment businesses were at a loss as to how to be compliant with differing advice in the market place to that provided by the HMRC. A number of employment businesses had chosen to operate such schemes. REC asked for confirmation on the GLA position.

GLA advised that:

- It followed HMRC lead position on such schemes
- Inspectors were receiving training on 'Pay day by pay day' tax relief models
- That an appeal would be heard on the operation of such a scheme in June
- That it would re-examine Brief 12 to see whether any further advice was required

**ACTION – GLA to review Brief 12 and if necessary update to include information on 'Pay day by pay day' tax relief models.**

9. One licence held by LP for multi-site operation

FPC asked for confirmation of the position on licensing where a labour provider only holds one licence but may operate nationally and supply labour to many sites. There was concern that a problem at one site might lead to the revocation of a licence jeopardising the supply of labour to other sites where there was no problem.

GLA confirmed that a GLA licence is required per legal entity supplying labour into the licenced sector and that it is very common for a labour provider to hold only one licence and supply to many sites. The GLA confirmed that, where for instance there is a maverick manager operating outside of company procedures, it would seek to identify whether or not this was a systematic failure or whether that individual was subverting the company processes. The GLA would take a proportionate view and may apply an ALC. Alternatively, the GLA may not accept the reason why the licence holder did not spot the breach of procedures.

SB added that in such organisations there is enormous peer pressure on managers to get it right as the actions of one can have consequences on all the others.

## 10. Updates

- a. GLA enforcement of AWR – GLA advised that it has a legal obligation not to turn a blind eye where there is a breach of licensing standards. Licence holders already have a legal obligation to pay all sums owing to a worker. This would include any sums being owed as a result of the AWR. Where a GLA Inspector identifies breaches of Licensing Standards through non-compliance with the AWR:
  - The GLA will require an explanation from the licence holder and the matter should be corrected.
  - If not corrected, the GLA may consider attaching a specific condition against the relevant Standard.
  - 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.

**ACTION – GLA to produce and issue Brief detailing its approach to enforcing compliance with AWR.**

- b. Progress of new GLA strategy – This will be developed in line with the outcome of the Red Tape Challenge and will be issued for discussion to the GLA Board.
- c. RTC and BIS review of workplace-rights, compliance and enforcement – At this stage there had been no formal response on this or the Red Tape Challenge.

**ACTION – REC to approach its contacts in BIS to obtain an update on the review of workplace-rights, compliance and enforcement.**

11. Any other business

12. Next meeting – Thursday 12 July, GLA, Nottingham.

The meeting was closed.