

GLA 22/7.3

Publicising revocations without immediate effect

22 April 2009

BOARD PAPER REFERENCE – GLA 22/7.3 – Publicising revocations without immediate effectIssue

1. To review the policy for publicising revocations without immediate effect.

Recommendation

2. The Board is invited to approve the recommendation below.

Background

3. Paper GLA16/8.5 was issued at the October 2007 Board meeting (see annex A as a reminder). This set out the circumstances in which press releases would be issued. These principles were subsequently published on the GLA website.
4. Wherever possible, the GLA seeks to conduct its work in an open and transparent manner. The GLA approach to press releases is widely seen as successful. The Universities of Liverpool and Sheffield's 2008 review commented "one of the main reasons that the GLA is able to 'punch above its weight' is that it has made effective use of publicity and communications". The GLA intends to continue and improve this approach of using publicity and communications.
5. In general, press releases are published right away for revocations with immediate effect. However, press releases are delayed for revocations that are made without immediate effect until the conclusion of the appeals process – at this point, the revocation decision is also added to the licence revocation list on the GLA website. No comment is made until this time unless the decision is already in the public domain or a request is made under the Freedom of Information Act, subject to whether any of the exemptions in the FOI Act apply.

Issues with releasing information for revocations without immediate effect

6. There is no barrier to the GLA issuing a press release or making some kind of public statement on decisions to revoke without immediate effect. However, there is a risk that where revocations without immediate effect are published and a labour provider subsequently wins its appeal, they could sue for damages. Given the GLA's very successful record with winning appeals, the level of this risk is low. The table below shows the results of appeals (with a breakdown of the nature of the appeal):

Appeal result	Appeals against ALCs	Appeals against refusals	Appeals against revocations with immediate	Appeals against revocations without immediate

			effect	effect
Won by GLA	1	11	2	17
Lost by GLA	1	0	1	1
Struck out by the AP	0	2	0	3
Withdrawn by the appellant	4	5	1	31
Withdrawn by the GLA	1	1	0	1

7. Where a decision has been made to revoke, labour users may not be aware that their labour provider has its licence revoked. Therefore, if any appeal is unsuccessful, the labour user faces a sudden disruption to its labour supply. The GLA currently publishes a list of licence holder inspected. This should encourage labour users to check the outcome with their labour provider, so in cases where the inspection leads to revocation without immediate effect the labour user could prepare themselves for potential disruption to their labour supply.
8. Additionally, the GLA's Active Check service automatically notifies registered users when the licence holder is inspected – again this would allow labour users to make ask appropriate questions. These approaches are a little convoluted in terms of enabling labour users to have forewarning about a considerable impact on their business. However, if the GLA announces in some way revocations without immediate at the time of the decision, it is highly likely that the labour user will immediately cancel its contract. Although the GLA be working in more transparent and timely manner, there could be accusations that the Authority has prejudiced the appeal process as well as adversely impacting on the business's ability to trade during that period.
9. While publicising information earlier would improve the openness of the GLA's decision making, there is clearly a balance to be struck with respecting someone's ability to trade legally during the period running up to an appeal.
10. However, there are circumstances when releasing information as early as possible would be beneficial. There have been a number of cases that have been subject to revocation without immediate but the basis of the decision are extremely serious, particularly where the decision was borderline for revoking with immediate effect. In such cases, there is a more compelling public interest in issuing a press release at the time of the decision.

Recommendation

11. Taking account of the risks in releasing information at the time of the decision but recognising the strong public interest in the more serious cases that have been revoked without immediate effect, it is proposed to make clearer the

circumstances when press releases will be issued without immediate effect.
Paper GLA16/8.5 states:

“Where the GLA revokes without immediate effect and the labour provider can continue to trade, the GLA will not normally issue a press release until the time for an appeal has elapsed or the appeal has been lost by the labour provider

The exception to this is where the justification for the revocation is already in the public domain and it is in the public interest to be open about the GLA decision.”

12. The Board is invited to approve a change to this policy so that press releases for revocations without immediate may be issued:
 - (a) where information about the revocation is already in the public domain. In such cases it would be important to clarify matters so that there was no misunderstanding or misinformation.
 - (b) where there are exceptional public interest reasons to publicise the decision. As a general guide, this would include revocations that are based on licensing standards score of 120 or more points or in circumstances where the business is no longer trading (for example, if the principal authority is on remand).
13. Where press releases are not issued for revocations without immediate effect at the time of the decision, the GLA will continue to:
 - issue press releases at the end of the appeals process (subject to the appellant losing), and
 - add an entry to the GLA list of revoked licences (which also states if a business has successfully applied for a new licence).
14. Please note, the GLA will generally not issue a press release for businesses who have been revoked without immediate effect and who successfully apply for a new licence (unless there are the exceptional circumstances mentioned in paragraph 12 above). This is on the grounds that if a business shows willing to get themselves up to standard, it would be counterproductive to ‘name and shame’ them.

Annex A

BOARD PAPER REFERENCE – GLA16/8.5 – Releasing information to the press

Issue

1. The interim Strategic Assessment states that the 'naming and shaming' of labour providers and labour users should be a core element of the GLA approach. Naming and shaming' will usually take the form of a press release and the release of defined information (detailed below). The general principles in this paper have been considered and approved by the GLA User Group.

Recommendations

2. The board is recommended to agree the above policy in full and also agree to publish this policy on the press office page of the GLA website.

Background

General principles

3. Where the GLA revokes a licence with immediate effect, a press release is immediately issued.
4. Where the GLA revokes without immediate effect and the labour provider can continue to trade, the GLA will not normally issue a press release until the time for an appeal has elapsed or the appeal has been lost by the labour provider.
5. The exception to (4) is where the justification for the revocation is already in the public domain and it is in the public interest to be open about the GLA decision.
6. Where investigations and operations are carried out the GLA will not name labour providers or labour users.
7. The GLA will not name any labour provider or labour user who are faced with prosecution action.
8. The GLA will not issue a press release where a labour provider has reapplied and been granted a licence before their initial licence was formally revoked.

Information released to the press alongside a revoked licence press release

9. List of licensing standards breached (would be superseded by the appeal decision letter if an appeal was heard).
10. Name of principle authority of revoked labour provider business.
11. Contact details of the labour provider business that is subject to revocation (including business address and business telephone number).

12. Sector the labour provider supplied to (e.g. fresh produce, food processing).
13. Crop picked or packed (e.g. carrots, potatoes, salads, ready meals, etc.).
14. Number of workers involved (if the information is available).
15. Nationalities of workers involved (if the information is available).
16. Notification of labour users connected to the revocation (if the information available and has been confirmed).