

GLA Consultation on Protocol with Major Retailers and their Suppliers

Summary of Responses

Introduction

The Gangmasters Licensing Authority (GLA) published a consultation document on 8 May 2009 seeking views on a draft protocol between the GLA and retailers. The consultation closed on 31 July 2009. Eight written responses were received, from representatives of suppliers and labour providers, from trade unions and individual suppliers.

In the same period, several events were held to consult with suppliers on both the draft Protocol and a draft guide for labour users, including events hosted by the Fresh Produce Consortium and by Wychavon District Council, and discussions with the GLA's Labour User Group.

Since then, the GLA has worked with retailers and suppliers to amend both the Protocol and the Guide.

This is a summary of the responses received during the consultation process, and the changes made as a result. As some respondents have asked for their responses to be anonymised, comments will not be attributed to individual organisations in this document.

Part 1: Retailer Protocol

Worker representatives have welcomed the development of the protocol, which they hope will put greater pressure on employers and gangmasters to abide by the law, and have called on supermarkets to take more responsibility for working conditions in their supply chains. Unions have also, however, expressed concern that the protocol will increase retailers' powers over their supply chain, and disappointment at the voluntary, non-binding nature of supermarkets' undertakings.

Labour user representatives have warned that the protocol in its original form seemed balanced against suppliers. In particular, some considered that it was inappropriate for the GLA to use retailers to take action against a labour user.

Labour provider representatives commented that the protocol should not be seen as a vehicle for supermarkets to push responsibilities down the supply chain without addressing the commercial pressure that they exert on it, and suggested that the protocol ought to encourage better communications between the different parts of the supply chain.

Labour users and labour providers also considered that some substantial changes should be made for the protocol to be balanced and not place retailers in a stronger position than others in the supply chain.

The following amendments have been made to the Protocol to reflect comments received both in written submissions and during consultation events:

- 1) Labour users expressed concern about the one-sided nature of a protocol between the GLA and retailers, and urged the GLA to treat all levels of the food chain as equals under the protocol.

In response to these concerns, the protocol has now been extended to cover suppliers as well as retailers.

- 2) Trades unions have welcomed proposed joint GLA/retailer visits to suppliers. Suppliers have strongly oppose proposals for joint GLA/retailer visits, warning that such cooperation would undermine the position of labour users and providers, and that it could give unfair commercial advantages to retailers involved in joint inspections.

In response, joint visits will no longer be carried out under the revised protocol.

- 3) Labour users objected to a proposed questionnaire through which suppliers had been asked to disclose to retailers details of the labour providers they use, as well as list all retailers to whom they supply.

This questionnaire, as well as proposals for retailers or the GLA to collate data on all supply relations, have now been removed from the Protocol altogether.

- 4) Suppliers regarded as unfair the extent to which the GLA was to share information with retailers about problems in their supply chains. In particular, concerns were raised that labour users might effectively be privy to less information about issues in their own supply chains than the retailers to whom they supply.

Retailers and the GLA have therefore agreed that the GLA will offer retailers the same information as to suppliers who sign up for the active check.

- 5) Suppliers expressed concern about the proposal that retailers would report to the GLA all issues which they had identified in their supply chain. Conversely, both worker and labour provider representatives have urged that retailers should not delegate their responsibilities to uphold standards in their supply chains either to the GLA or to their suppliers.

Under the revised protocol, retailers and their suppliers agree to report to the GLA only significant issues and instances of exploitation or abuse. In cases of minor, technical breaches retailers are now encouraged to work with suppliers to remedy problems instead, and keep a record of the corrective action that has been taken.

- 6) Labour user representatives have objected in principle to what they saw as supermarkets effectively imposing sanctions on non-compliant businesses on the GLA's behalf, and warned that labour users might hold the GLA liable for action taken by retailers as a result of the protocol. In particular, labour users objected to clauses under which retailers were expected to take action against complicit suppliers, up to and including delisting.

These clauses have now been amended to be less prescriptive. The GLA has committed itself to sharing information about worker abuse not only with retailers but also with suppliers wherever possible. Supermarkets and suppliers, in turn, undertake to decide and take all necessary steps to eliminate identified abuses in their supply chains on the basis of this information.

Part 2: Labour User Guide

Some suppliers and labour providers objected to the production of a GLA best practice guide in principle as they considered it inappropriate for the GLA to comment on standards other than legal requirements for labour users. Other suppliers, however, felt that limiting the content of the labour user guide to legal requirements defeated the object of the guide, and welcomed the fact that all major retailers would support the same guidelines.

Both suppliers and some labour provider representatives expressed concerns about the additional burdens which may be imposed on businesses as a result of this guide. In particular, concern was expressed that recommendations set out in the guide would effectively become requirements, and could have a disproportionate impact on small businesses.

Several changes have been made to the guide to address these concerns. Firstly, the guide is now entitled 'Best Practice Guide for Labour Users' as the previous title, 'Responsible Labour User Guide', might have implied that failure to comply with the all recommendations amounted to irresponsibility.

Secondly, the guide now clearly distinguishes between legal requirements on the one hand, and good practice recommendations on the other. Good practice, in turn, was divided into high, medium and low priority recommendations. This is in contrast to early versions which distinguished between 'must do' (including legal requirements and good practice) on the one hand and 'should do' (best practice) on the other.

After further consultation with suppliers, it was decided to remove all 'low priority' recommendations, as these were deemed to be the most onerous requirements with which some, but not all, retailers currently expect suppliers to comply. Thus recommendations around documentation and training in workers' first language, provision of English language training, use of agency workers versus permanent staff, pay parity and pensions for agency workers, transferring workers to permanent employment, pay and transport home for worker who have turned up for a shift but are no longer needed, and communicating with agency workers, have all been removed from the Guide.

A blurb has also been added to the document, which makes clear that it may not be feasible or necessary for all businesses to adopt all recommendations, and encourages suppliers to assess which practices would be appropriate for them to adopt in light of their own and their labour providers' particular circumstances.