

GLA17/7.5 Actions from the GLA User Group

22 January 2008

BOARD PAPER REF. – GLA17/7.5 – Actions from the GLA User Group

Issue

1. To make the Board aware of the actions from the last GLA User Group meeting on 28 November 2007.

Recommendations

2. The Board is invited to note the actions at Annex A.

Background

3. The "User Group" is a forum for labour providers to discuss with the GLA how the licensing is operating. It also provides opportunity for the Authority to gather views on new proposals.
4. The group meets quarterly and attendance is open to all licence holders. The fifth meeting was held on 28 November 2007.

Annex A – GLA User Group 28 November 2007 Meeting Actions

No	Meeting	Description	Response	Licensing News	Status
1	16/05/07	Licensing News to remind LPs about renewal		To be included in future LN	Open
3	16/05/07	Various AWO issues:			
		a) Information on appeals on AWO to be provided by the GLA when results known via Licensing News		To be included in future LN	Open
		b) GLA position on applicability of AWO to workers on Contracts for Service	Awaiting Defra legal advice	To be included in future LN	Open
		c) Agricultural Rigs - Confirmation sought that standard Working Time rules apply not drivers working time rules.	That is the GLA position.	To be included in future LN	Open
		d) Workers are used by a LP at various agricultural assignments. Worker works 20 hours at Farmer 1, 15 hours at Farmer 2, 18 hours at Farmer 3. Total of 53 hours. AWO says they qualify for overtime rates if working more than 39 hours per week. No single farmer will pay overtime rate.	Defra advice applies	To be included in future LN	Open
		e) Overtime for Agricultural Workers - is it appropriate that an LP should have their licence revoked for non payment of overtime (i.e. regarded as a breach of 2.8)	A failure to pay overtime to agricultural workers would not be a failure of 7.3 (contractual terms), but there could be a failure of 7.3 if it is not made clear that such payments are due to those engaged in agricultural work. We don't think it would be	To be included	Open

No	Meeting	Description	Response	Licensing News	Status
			<p>appropriate to regard it as a failure of 2.9 for two reasons – firstly that it would be a double-count it, and secondly because this standard is about benefits other than directly wage-related.</p> <p>It will be counted against 2.8 (minimum wage), where failure is identified. This makes it clear that the LP is not compliant with the agricultural minimum wage rules.</p>		
12	16/05/07	Awaiting written confirmation re LS 5.1 “Workers are allowed to take statutory breaks” that in a situation where workers are allowed to take them but choose not to that this will not be a non-compliance if workers are aware and there is no coercion.	This interpretation is correct. We will publish in Licensing News that the GLA will seek confirmation that workers are made aware of their entitlement to statutory breaks, and that the employer ensures that they are taken in accordance with DTI (now BERR) guidance.	To be included in a future LN	Open
13	16/05/07 And 19/09/07	Awaiting written confirmation how the GLA will apply LS 9.1 where not all workers have NI numbers.	GLA expects all UK citizens to have a NINo. For migrant workers we recognise that a NINo will need to be applied for, and there may be some delay in allocation. We therefore expect to be able to see that workers	To be included in a future LN	Open

No	Meeting	Description	Response	Licensing News	Status
			have applied or obtained a NINo, and addressed any exceptions (e.g. where a worker may not have even applied for a NINo after 3 months). GLA to confirm with the DWP		
14	16/05/07	In LS 6.8 what specifically are regarded as "obvious/identifiable serious safety defects".	<p>There are three common sense tests:</p> <ul style="list-style-type: none"> • Is the vehicle being maintained (MOT certificates, maintenance records); • Would you feel safe in travelling in the vehicle (there must be no obvious problems such as unsafe seats/doors/no seatbelts; • Is the identified fault fixable quickly (e.g. buy a new tyre/get a new bulb of brake light cover). Faults have to be visible - we do not conduct technical inspections. In cases of doubt we will refer to VOSA/police vehicle examiners 	To be included in a future LN	Open

No	Meeting	Description	Response	Licensing News	Status
15	16/05/07	Awaiting written confirmation that GLA are applying Court of Appeal finding in HMRC v Thorn Baker Ltd that LP need not pay SSP to workers on fixed term contracts of no more than 3 months	The GLA is applying the finding	To be included in a future LN	Open
17	19/09/07	Position of Bulgarians and Romanians to be included in LN. Specific focus on self employed status	Agreed	To be included in a future edition of LN	Open
19	19/09/07	GLA to provide advice on public register on approach for revocations and reapplications.		To be included in a future edition of LN	Open
20	19/09/07	GLA to add extra paragraph to Public Register: Refusals and Revocations Paper to clarify the position for Licences Revoked Without Immediate Effect and who have applied again.		No	Open
23	19/09/07	GLA to clarify what 'effectively providing' accommodation means.	BERR NMW guidance applies	To be in published in a future edition of LN	Open
24	19/09/07	GLA to clarify with the HMRC NWM Enforcement Team the position on deductions for transport.		To be in published in a future edition of LN	Open
25	19/09/07	To provide further clarification on PPE (to be agreed with HSE as necessary).		To be in published in a future edition of LN	Open
26	19/09/07	GLA to check with Defra the AWO rates (re. holiday entitlement).		Yes	Open
27	28/11/07	GLA to consider comments submitted on determining when to revoke with immediate effect. Revised position to be circulated to UG by correspondence for comment		TBC	Open
28	28/11/07	GLA to circulate draft process for publicising ALCs		Yes	Open
29	28/11/07	GLA to prepare "information sheet" for inspectors to give to licence holders at inspection to explain process and what happens next. Draft document to		No	Open

No	Meeting	Description	Response	Licensing News	Status
		be circulated to the UG for comment			
30	28/11/07	GLA to consider streamlined AI process for those reapplying after inadvertently missing licence renewal date		No	Open
31	28/11/07	GLA to seek advice from BERR on latest position for rolled up holiday pay.		Yes	Open