

GLA 20/7.2

Exclusions Regulations Consultation

8 October 2008

BOARD PAPER REFERENCE – GLA 20/7.2 – Exclusions Regulations, consultation response

Issue

1. Defra consultation on potential changes to the Gangmasters Licensing (Exclusions) Regulations 2006.

Recommendation

2. The Board is invited to:
 - Note the proposed content of the GLA consultation response
 - Consider paragraph 2 of the Exclusion regulations.

Background

3. Defra's consultation on the Gangmasters Licensing (Exclusions) Regulations 2006 closes on 20 October 2008. The document is at Annex A. No major changes are proposed. The consultation seeks views on:
 - the scope of the farmer to farmer loans exclusion;
 - broadening the exclusion for supply of specialist workers;
 - exempting certain charities and/or public bodies;
 - exempting supply of workers between companies under the same ownership; and
 - potential exclusions for the forestry sector

GLA response

4. Based on our operational experience, the GLA response to the consultation will cover four points
 - The use of an immediate family member to provide agricultural services should be exempt
 - The definition of 'farmer' should be tightened, to ensure that gangmasters without a farm are not classed as 'farmers'
 - Charities and public bodies should be exempt when using volunteers (as defined in Section 44 of the National Minimum Wage Act 1998), and when arranging work experience or training for individuals on a disability or unemployment related welfare benefit.

- Exclusion 2, exempting catering, retail, wholesale and distribution should make clearer that mainstream food processing/ packing is not exempt

Discussion on Paragraph 2 of the Exclusion Regulations

5. The GLA's proposed response on Paragraph 2 of the Exclusion regulations is relatively minor and simply tidies up the wording of the regulation by improving clarity.
6. However, the Board is invited to consider this exemption more widely. Exclusion 2 currently exempts:

" The supply or use of a worker to process or pack produce if the worker is supplied to –

- (a) a catering establishment;*
- (b) a shop or other retail establishment;*
- (c) a wholesale market;*
- (d) a wholesale establishment;*
- (e) a distribution warehouse."*

7. When the Exclusions Regulations were first developed, this exemption essentially defined the boundary of the licensing scheme within the food industry on the grounds that exploitation was not prevalent.
8. Although the Defra consultation does not envisage substantial changes to the Exclusion regulations, the Board is invited to discuss whether it should press for more in-depth consideration of the merits of Exclusion 2.