

GLA 14/7.6

DTI Consultation on Vulnerable Workers

17 April 2007

BOARD PAPER REFERENCE – GLA 14/7.6 – DTI Consultation on vulnerable workers

Issue

1. The Department of Trade and Industry consultation on changes to the employment agencies legislation and implications for the GLA.

Recommendation

2. The Board is invited to note the proposals and draft GLA response. Board members are also able to respond individually to the consultation.

Background

3. The DTI published "Consultation measures to protect vulnerable agency workers" on 20 February 2007 (www.dti.gov.uk/consultations/page37726.html).
4. The consultation proposes changes to the Conduct of Employment Businesses and Employment Agencies Regulations 2003. These regulations were disapplied by the Gangmasters (Licensing) Act and reintroduced by the Gangmasters (Licensing Conditions) (No 2) Rules 2006. As the DTI legislation is replicated by the GLA's Rules, any relevant regulatory amendments by the DTI will also need to be mirrored by the GLA.
5. The impact on the GLA is relatively minor. The consultation includes two proposed regulatory changes applicable to the GLA:

i) Provision of services – the right to withdraw

6. There is already a restriction on providing work conditional on taking up other services. The DTI want to strengthen this further. Where workers take up optional services, the DTI propose giving the workers the option to opt out, after a defined notice period. Labour providers would be prohibited from taking any detrimental action if the worker does withdraw from the services. For example, workers could use accommodation or transport provided when they first start work, but then decide to make their own arrangements.
7. The consequences for the GLA from this potential change are:
 - Initial legal advice indicates the GLA Rules may not need to be amended.
 - Licensing Standard 4.2 specifies "Where workers live in accommodation provided by the gangmaster, they are allowed to find suitable accommodation after giving an agreed notice period." Minor revision for the underlined wording may need to be considered.
 - Licensing Standard 7.2 specifies that workers "are not obliged to use the services of the licence holder to hire or purchase goods or services as a

condition of finding work". If a further restriction on not penalising workers from withdrawing from services is introduced, a minor revision to LS 7.2 may need to be considered. Alternatively, revising Licensing Standard 3.5 could be considered - currently it specifies "A worker is not penalised for giving notice, nor does the worker have to pass on details of any new employment."

ii) Simplifying information requirements for short term assignments

8. To ease the administration burden for business, the DTI propose to limit the information that needs to be provided to workers and labour users if the work lasts for less than 5 days. The consequences for the GLA from this potential change are:
 - Initial legal advice indicates paragraph 15 of the GLA's Rules may need to be amended to specify that information need not be provided if the work lasts for less than five days.
 - Licensing Standard 7.2 concerns the information provided to workers. It is unlikely any change to this will be necessary. Supplementary guidance might need to be considered for LS 7 and Appendix 1, which relates to record keeping.

Next Steps

9. As the potential changes relevant to the GLA are relatively minor, the GLA does not intend to consult itself on the possible amendments to the Rules and Licensing Standards. The GLA will discuss the potential changes with DTI after the consultation closes on 31 May 2007. The changes are intended to come into force in April 2008. The Board will be kept informed of developments.
10. As the intention is to improve protection for workers, the GLA proposes to respond to the consultation supporting the changes. A draft response is attached at Annex A.

Annex A – Draft GLA response to the DTI Consultation on measures to protect vulnerable agency workers

“The Gangmasters Licensing Authority welcomes the DTI intention to further strengthen protection for workers and fully supports the proposals set out in the consultation document.

As the Conduct of Employment Businesses and Employment Agencies Regulations 2003 are disapplied by the Gangmasters (Licensing) Act 2004 for the GLA regulated sectors, the relevant provisions in the Conduct Regulations have been reintroduced by the Gangmasters (Licensing Conditions) (No 2) Rules 2006. The proposals relating to the right to withdraw from provided services and simplifying information requirements for short term assignments are relevant to the GLA. The GLA will therefore need to mirror any regulatory changes for these provisions.

I would like to ask you to keep in touch with the GLA to make sure any necessary amendments to gangmasters licensing legislation can be brought forward.

Yours sincerely

Paul Whitehouse”