

Supermarkets and Suppliers' Protocol with the Gangmasters Licensing Authority –

Best Practice Guide

March 2011



Appendix 1

Good practice guide for labour users and suppliers

The Gangmasters Licensing Authority (GLA) was set up to protect workers by licensing labour providers in the agriculture, shellfish gathering and food processing and packaging sectors.

Labour users and suppliers have an important role to play in making sure workers continue to be fairly treated through their day-to-day contact with labour providers and workers. This guide sets out the legal requirements for labour users as well recommended best practice.

This guide is supported by the major food retailers and supplier representatives and will be updated as and when laws and best practice change.



GLA requirements, licensing and labour provider auditing

| Priority | Question | How? Who can help | Why? |
|-------------------------------|--|---|---|
| Legal Requirement High | <p>Is your labour provider licensed?</p> <p>When striking a contract, do you deal only with the Principal Authority of other individuals named on the licence?</p> | <p>Go to www.gla.defra.gov.uk and check the GLA public register</p> <p>The public register displays entries alphabetically by business name. You can search on the name of the organisation or the trading name. If a business is based in more than one place you will only find the address for the head office. Branch addresses will only be listed if they are separately licensed. Always ask for the licence number as this will make checking easier. The licence number is also known as the Unique Reference Number (URN). You should always check that the person you are negotiating contract terms with is authorised on the licence. All of those able to negotiate on behalf of the licence holder are shown on the public register entry as authorised persons or post holders. In large organisations you may see only the job title.</p> <p>Generally, a labour provider will have one entry on the public register which contains details of its current status. Occasionally, you may find that a labour provider has two entries: licensed and applied. This occurs when a labour provider has had a licence revoked without immediate effect and so has made a fresh application before the licence is revoked. This will also occur if the status of a business has changed as a new application will be required.</p> <p>The public register shows the names of the Principal Authority and other persons authorised to act on behalf of the labour provider. Only those named on the licence are permitted to strike contracts for the supply of labour.</p> | <p>Since 1 October 2006 all labour providers to the agriculture and food industries must be licensed under the Gangmasters (Licensing) Act 2004.</p> <p>It is a criminal offence for a labour user to use an unlicensed labour provider. It is the responsibility of the labour user to ensure that they use licensed legal labour providers.</p> |

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|---------------------------|---|---|---|
| Legal Requirement High | Have you asked your labour provider for a list of all of the names of workers who work on your site | This should be listed on the timesheets which you authorise for payment. | You are responsible for all workers on your site. |
| High | Are you registered on Active Checks which will give you regular updates and notify you of changes in your labour provider's status? | <p>Go to www.gla.defra.gov.uk and sign up for regular updates</p> <p>Ensure your contact details registered with the GLA's Active Check Service are fully up to date and that someone within your organisation can receive the message in your absence.</p> | <p>If you register an interest in a labour provider through the active check process the GLA will:</p> <ul style="list-style-type: none"> • have a record that you have made a check; and • be able to inform you of any change to the status of this labour provider. <p>By registering your interest with the GLA in one or more labour providers via the active check process, we will let you know if:</p> <ul style="list-style-type: none"> • they are inspected; • their licence is revoked; • they cease trading; • they have been granted or refused a licence if they are currently undergoing the application process; • individuals named on the licence who are permitted to negotiate on behalf of the licence holder are changed. <p>If you have any doubts at any time as to whether the labour provider is licensed you should contact the GLA for confirmation on 0845 602 5020.</p> |

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|----------|---|--|--|
| High | <p>Do you have a clear Service Level Agreement (SLA) with your labour provider that contains:</p> <ul style="list-style-type: none"> • a minimum payment period for workers if they turn up to work and are no longer needed; • detailed charge rates; • payment agreement between the labour provider and labour user and confirmation that workers will be paid; • written agreement on responsibility for health and safety training; • notification of any subcontracting if you allow it; • prompt notification by the labour provider of any change of their address. | | <p>This will help you have a clear understanding and documentation of exactly who is responsible for all elements of your workers' welfare. It will also enable you to be clear on what you expect your labour provider is doing on your behalf when recruiting labour. It is good practice to ensure that workers are not required to attend unless there will be sufficient work for them.</p> |
| High | <p>Do you have a clear arrangement with your labour provider to ensure the health and safety of all workers?</p> | <p>See Annex A for suggested checks to make during an audit.</p> | <p>Licence holders must collaborate with labour users to ensure that responsibility for the identification and delivery of health and safety training or any induction training necessary to ensure safe working practices has been agreed and assigned. The responsibility for health and safety should rest with the labour user</p> |

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| High | <p>Do you conduct documented random checks of your agency workers? For example, checking wage slips, worker transport</p> <p>Do you discuss their accommodation with them?</p> | <p>The GLA can provide help and advice. Bear in mind that the labour provider has responsibilities under the Data Protection Act.</p> <p>See also Annex B for other useful links.</p> | <p>Conducting regular checks will help you ensure that your labour provider is acting legally and responsibly towards their workers.</p> <p>As well as document checks, formal interviews, informal conversations with agency workers or regular agency workers surgeries are good ways to find out about an agency worker's experience and if there are any issues with the agency. A list of possible questions is included in Annex A but please be aware that workers are likely to respond better to more informal conversations rather than formal interviews.</p> |
| High | <p>Have you checked that you are paying your labour provider enough to meet the minimum legal requirements and other associated costs? The GLA publishes an indicative minimum charge rate on its website. You should pay at least the GLA indicative minimum charge rate.</p> | <p>Specific guidance on rates is detailed in a brief entitled <i>Minimum Charge Rates</i> agreed between the ALP and GLA which can be found at www.gla.gov.uk.</p> | <p>Labour Users should be suspicious of rates that do not allow the labour provider to meet the following elements:</p> <ul style="list-style-type: none"> • minimum unavoidable total wage costs required to meet basic legal requirements such as the minimum wage. National Insurance (NI), Statutory Sick Pay (SSP) and statutory holiday entitlement; • agricultural minimum wage (including overtime pay) where appropriate; • their business overheads, transport costs, management costs and profit. <p>Labour users should consider whether they are being offered a 'too good to be true' price for the provision of labour. If this is the case the GLA would urge labour users to report the matter to them and not accept this offer.</p> |

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| High | Have you asked your labour providers to notify you each and every time they have a visit or inspection from the GLA and tell you about the outcome? | <p>Register for the GLA's Active Check Service, which will inform you when your labour provider has been inspected.</p> <p>A list of inspections is also published on the GLA website. You can then get in touch with the labour provider and find out the outcome of the inspection (the GLA will write to the licence holder with the inspection's findings).</p> | Not only will this help enhance your relationship with your labour provider if they are willing to share outcomes with you this will help you understand and deal quickly with any issues raised during the audit. |
| Medium | <p>Do you conduct a regular audit of your labour provider to check:</p> <ul style="list-style-type: none"> the correct amounts of wages, tax, NI and VAT are paid on time and that there are no improper deductions; there is no debt bondage, harsh treatment or intimidation of workers; workers' accommodation is of an acceptable standard; working time regulations are complied with; health and safety requirements, including training, are complied with; | <p>See Annex A for suggested checks to make during an audit and for sample questions to ask workers. Annex B will provide useful links to assist you with the interpretation of the GLA Standards.</p> <p>HM Revenue & Customs (HMRC) may well seek to recover input tax from a supplier whose labour provider has not paid tax and NI.</p> | Labour users have an important role in making sure labour providers continue to act responsibly through their day-to-day contact. |

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| Medium | <ul style="list-style-type: none"> workers' transport is safe; proper recruitment and contractual arrangements are in place; whether your labour provider sub-contracts. | | |
| Medium | <p>Are the workers on your site who work for labour providers aware of who to report problems to? Encourage them to raise any issues with you or make sure they have contact details for the GLA.</p> | <p>Provide the worker with contact details for the GLA and/or pass the information on yourself directly to the GLA by calling 0845 602 5020.</p> | <p>From time to time, you may hear of worker complaints ranging from not being paid by the labour provider for hours worked or questionable deductions, to the even more serious matters of threats and abuse. You may want to handle this yourself but you should also provide the worker with contact details for the GLA and/or pass the information on yourself directly to the GLA. This will enable the GLA to deal with labour providers who may be breaching the licensing standards. All information is handled in accordance with the National Intelligence Model which means the GLA will acknowledge receipt of information but may not be able to provide you with any further details until any investigation is finalised.</p> <p>The GLA accepts some complaints may be misunderstandings and would not usually launch a full investigation without some evidence or other intelligence received in relation to a labour provider. If an investigation is launched, the GLA will be happy to provide positive publicity to any supplier/labour user who has worked with it.</p> |

Annex A

What to check during audit of a labour provider

The complete licensing standards are available on the GLA website: www.gla.gov.uk. This section explains how you can make your own checks against the standards when you audit a labour provider.

Licensing Standard 1: Fit and proper & competency test

- Check that your labour provider has a current GLA licence, and register for the Active Check Service. This will keep you updated on any changes in your labour provider's status and any inspections of your labour provider. Ensure that your labour provider informs you of the outcomes of any GLA inspection and see if you can assist them in clearing additional conditions added to a licence.
- If you identify non-compliance against the GLA standards that are correctable, work with your labour provider to clear these and keep accurate records of action you have taken.
- If you become aware of any changes to the labour provider's business that may affect the licence, you should ask them to report these to the GLA without delay.
- Ensure that your labour provider is competent in operating their business and that they are aware of the GLA standards and UK law governing their employment of workers. If you have doubts contact the GLA.





Annex B

Possible questions for agency worker interviews

1. Who do you work for?

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2. Do you travel to work in transport provided by your employer?

Y/ N

If Yes:

Is it a mini bus? Y/ N

Do you pay for the transport? Y/ N

Is the money deducted from your wages? Y/ N

Have you given written consent for this money to be deducted? Y/ N

3. Do you live in accommodation provided by your employer? Y/ N

If Yes:

How much does your employer deduct from your wages for the accommodation? £..... per week or per month

Have you given written consent for this money to be deducted? Y/ N

4. Does your employer deduct anything from your wages other than Tax and National Insurance? Y/ N

Have your given written consent for this money to be deducted?

Y/ N

What is the deduction for and how much do you pay?

..... £.....

5. Do you have a contract of employment? Y/ N

6. How were you recruited and were you made to pay for getting the job?

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7. Have you signed a form agreeing to work more than 48 hours each week?

Y/ N

8. Have you been informed of your entitlement to?

Holiday pay Y/ N

Sick pay Y/ N

- 9. Are you in debt to your employer? Y/ N
- 10. Has your passport been retained by your employer? Y/ N
- 11. Do you have to pay for protective equipment such as safety boots?
Y/ N
- 12. Are you paid regularly? Y/ N
- 13. How much are you paid per hour? £.....

Any other information:

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Annex C

Useful Links

Government and other public bodies

Gangmasters Licensing Authority

www.gla.defra.gov.uk

0845 602 5020

Pay and Work Rights Helpline

<http://payandworkrightscampaign.direct.gov.uk/index.html>

0800 917 2368

Business Link

www.businesslink.gov.uk

0845 600 9 006

DirectGov

www.direct.gov.uk

Forestry Commission

www.forestry.gov.uk

0845 3673787

Forest Service Northern Ireland

www.forestserviceni.gov.uk

02890 524480

Department for Environment, Food and Rural Affairs

www.defra.gov.uk

08459 33 55 77

Local Authorities Coordinators of Regulatory Services

www.lacors.gov.uk

England – 0207 7840 7200

Wales – 0292 046 8609

Scotland – 0141 222 2001

Northern Ireland Local Government Association

www.nilga.org

0289 024 9286

Industry

Association of Labour Providers

www.labourproviders.org.uk

01276 509 306

Recruitment and Employment Confederation

www.rec.uk.com

020 7463 3265

British Retail Consortium

www.brc.org.uk

020 7854 8900

Fresh Produce Consortium

www.freshproduce.org.uk

0173 323 7117

Food and Drink Federation

www.fdf.org.uk

020 7836 2460

Sea Fish Industry Authority

www.seafish.org

0131 558 3331

Shellfish Association of Great Britain

www.shellfish.org.uk

020 7283 8305

Forestry Contracting Association

www.fcauk.com

0870 042 7999

Confederation of Forest Industries

www.confor.org.uk

0131 240 1410

Trade Unions and other Organisations

Ethical Trading Initiative

www.ethicaltrade.org

020 7841 5180

National Farmers Union

www.nfuonline.com

024 7685 8500

National Farmers Union Scotland

www.nfus.org.uk

0131 472 4000

Trades Union Congress

www.tuc.org.uk

020 7636 4030

Unite the Union

www.unitetheunion.com

020 7611 2500

The GLA has a Worker Rights leaflet which explains that workers are protected by law and outlines what they should expect from a UK labour provider operating in the GLA regulated sectors.

If you would like copies of any of the 18 languages listed below please contact the Communications team on 0845 602 5020 or email communications@gla.gsi.gov.uk.

All GLA publications are also available at www.gla.defra.gov.uk.

- Bengali
- Bulgarian
- English
- Gujarati
- Hindi
- Hungarian
- Kurdish
- Lithuanian
- Latvian
- Mandarin
- Polish
- Portuguese
- Punjabi
- Romanian
- Russian
- Slovak
- Urdu
- Welsh

Northern Ireland version available in:

- Bulgarian
- English
- Latvian
- Lithuanian
- Polish
- Romanian

