

This Brief explains the GLA's revised approach to application inspections for new licence applicants. This process comes into effect from 1 October 2013.

Introduction

As a result of the Government's "Red Tape Challenge" review of regulatory practice by different regulators, the GLA was asked to review its approach to the inspection of businesses for a licence to reduce regulatory burdens. It is proposed that the GLA should move from its current process to an approach where a physical application inspection would not occur automatically.

Following a public consultation process and thorough discussion at the GLA Board, the GLA will now determine whether a physical application inspection is required dependant on whether the profile of an applicant meets either mandatory criteria (a physical inspection will always occur), or the discretionary criteria (a physical inspection may occur).

The Criteria and Process

Annex 1 identifies the circumstances which will determine whether a physical application inspection is always required and those circumstances where the GLA may exercise discretion as to whether or not to make a physical inspection.

The current Government Department checks will continue to be run on new applicants. If a new applicant has a clean response from those Government Departments the GLA will determine whether the other mandatory criteria are met. Where none of the mandatory criteria are met the application will be considered under the discretionary criteria.

Each application which meets the discretionary criteria will be considered through the GLA's inspection allocation process, which involves the licensing team. That review will determine, based on the individual circumstances of a case, whether:

- a decision can be reached without further examination
- the application can be dealt with by intervention by the licensing team, without the need for a physical inspection
- an inspection with/by partner agencies is required
- A GLA inspection without other partners is required

Examples

The following examples do not constitute **an exhaustive** list of the decisions to be taken on the discretionary criteria in Annex 1:

Where clear evidence of current or recent non-compliance and/or criminality exists on which to consider refusal without inspection

Where recent regulatory action has been taken against a labour provider, who re-applies, where the GLA considers that the risks that led to regulatory action remain, or where the criminality of the Principal Authority is deemed to be a risk to the safety and rights of workers, decisions can be taken without the need for further inspection. This would occur where documentary evidence (e.g. court records, GLA appeals decisions) is held.

New applications by the same legal entity, where less than 6 months has elapsed since the expiry of their previous GLA licence

Such circumstances can be effectively reviewed by the licensing team, reviewing the documentation of the business, to determine whether it is operating the same business model. Any concerns arising from that review might lead to a need for a follow up physical application inspection.

Start-up companies which have not traded before in any sector

Where a business has not traded in any sector there will be no workers or contracts to inspect. Therefore a consensual comparable assessment of its business model in other sectors cannot be established. Such physical inspections would not be an effective use of resources. The review of such cases is more suitable to enquiry by licensing to test out a business's preparation to trade. If the documentation and knowledge of the applicant, in response to the licensing enquiry, appeared to indicate a lack of competence that might place workers at risk a decision may be taken. Alternatively the licensing team might then refer the application for a physical inspection.

Umbrella companies, overseas intermediaries or dedicated tax relief scheme operators, etc

The nature of such activity requires liaison with HMRC. Such enquiries by the GLA have already been effectively run from the licensing team to test compliance. The outcome of those enquiries may provide sufficient information on which to base a decision, or it may require a physical inspection either independently or with HMRC.

Application Inspection Fees

All new applicants with the exception of forestry only applicants (see GLA Brief 23) will continue to be required to pay an application inspection fee. This fee covers all inspection activity whether relating to the Government checks, enquiries operated from the licensing team, or by physical application inspection. The application inspection fee is non-refundable.

This process comes into force from: 1 October 2013

Further information

If you would like any help or guidance, more information is available on the GLA website, www.gla.defra.gov.uk. You can also contact our helpdesk:

Email: enquiries@gla.gsi.gov.uk

Telephone: +44 (0) 845 602 5020

If you have received a hard copy of this Brief but would prefer electronic versions in future, please email communications@gla.gsi.gov.uk

Annex 1 Mandatory and discretionary inspection criteria

1. Mandatory Inspection	2. Discretionary inspection
<ol style="list-style-type: none"> 1. Previously refused or revoked licence holder, or someone identified as previously linked to that business 2. Adverse Government check information or adverse intelligence 3. Where no information is held on the company or individuals on the application 	<ol style="list-style-type: none"> 1. Where clear evidence of current or recent non-compliance and/or criminality exists on which to consider refusal without inspection 2. New applications by the same legal entity, where less than 6 months has elapsed since the expiry of their previous GLA licence 3. A new legal entity which at the time of application proposes to replace the existing compliant licence holder as a going concern, for business reasons accepted as legitimate and where no outstanding tax/NI debt is identified 4. A new legal entity set up for business reasons accepted as legitimate, by a compliant licence holder whilst continuing to operate the initial licensed company as a going concern 5. Applicants with a clean history of trading in other industry sectors that supply evidence of compliant operation including an independently verifiable GLA accredited scheme audit report with details of any identified problems and confirmation of resolution (to be implemented at a later date) 6. Application form inaccuracies unresolved by direct liaison with the Principal Authority 7. Start-up companies which have not traded before in any sector 8. Umbrella companies, overseas intermediaries or dedicated tax relief scheme operators, and labour provider identified as operating such in-house schemes or using such companies 9. Where a tax dispensation has been revoked or is under review; outstanding tax/NI debt is identified; a cash security deposit to HMRC is required or a "time to pay agreement" exists 10. Land Agents / Apprenticeship Training Agencies / Forestry