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ALP Policy Paper – January 2012

Future Focus of the Gangmasters Licensing Authority

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Introduction

The Association of Labour Providers (ALP) represents over 270 labour provider businesses, all of which are subject to the licensing standards of the GLA. The Association has been heavily involved in the regulation of labour providers over the last five years.

Legitimate labour providers want, and have a right to expect, a “level playing field” in order to compete fairly within the law. To enable this it is essential that action is taken to prevent rogue businesses from undercutting legitimate labour providers, either through tax evasion, worker exploitation or both. To this end, the industry supports an intelligence-led, risk-based proportionate enforcement regime that facilitates a fair, competitive trading environment.

The Association acknowledges the significant improvement achieved in labour supply standards within the food and agricultural supply chain in the last eight years. The GLA has played a major role in this improvement; however, its role has changed since it was formed and continues to evolve.

As the Regulators’ Compliance Code 3.2 states: “Regulators should keep under review their regulatory activities and interventions with a view to considering the extent to which it would be appropriate to remove or reduce the regulatory burdens they impose.”

The GLA should rightly focus its enforcement activities on the worst cases of worker exploitation and tax evasion and continue to move its compliance regime towards providing a risk based, lighter touch, lower cost effective regulation mechanism.

This Policy Paper examines changing government policy on frontline enforcement, summarises labour providers’ views on the GLA and proposes 20 areas, in accordance with the Government’s *Transforming Regulatory Enforcement* agenda and the Regulators’ Compliance Code, that the GLA should address “to better target non-compliant operators and reduce burdens on the compliant”.

Transforming Regulatory Enforcement

Plans to change the way that businesses experience 'frontline enforcement' were set out by Business Secretary Vince Cable, on 7th December 2011, as part of the Government's *Transforming Regulatory Enforcement* agenda to transform business' experience of regulation at the front line, including:

- A review of all regulators, not just to examine the case for continued existence, but to make sure each one is making the fullest possible use of alternatives to conventional enforcement methods, working with business and others and reducing state activity wherever possible.
- Making greater use of 'earned recognition', so that compliant businesses are subject to fewer inspections and unnecessary regulatory action.
- Doing away with the assumption that compliance is something for the State to enforce alone, moving to a presumption that regulators should work with business through 'co-regulation' wherever possible.
- Working with businesses, through local enterprise partnerships and local authorities, to promote better local regulation.
- A presumption that regulators should help businesses comply with the law.
- Establishing the principle that no business should face a sanction for simply having asked a regulatory authority for advice.
- Retaining the Regulator's Compliance Code, giving it a higher profile, making sure it is understood by customers and placing it at the heart of reviews of regulators.
- Government departments will have to consider carefully the costs of enforcement for business and the taxpayer.

This comprehensive package of measures aims to transform the culture of enforcement so that businesses will see a real difference, becoming more like customers rather than simply on the receiving end, of the regulatory enforcement system.

These proposals are broadly supported by the Association as being right for business.

What Labour Providers think of the GLA

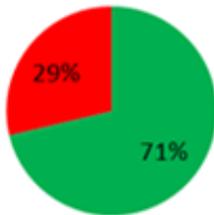
The ALP conducted a survey of members' views on the GLA between 27th October and 18th November 2011. This repeated a number of the questions included in a 2008 survey by the Universities of Liverpool and Sheffield.

In the recent ALP survey, 71% said that they were in favour of licensing (79% in 2008), 61% said the GLA had improved conditions for workers (60% in 2008), and 69% said the GLA had reduced fraud/illegal activity (60% in 2008).

The most significant change in perception however is the drop from 69% to 49% of those that felt the GLA was doing a good job.

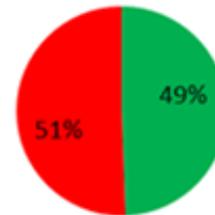
1. Are you in favour of Gangmaster licensing

■ Yes ■ No



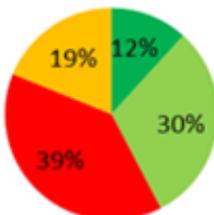
2. Overall, do you think that the GLA is doing a good job?

■ Yes ■ No



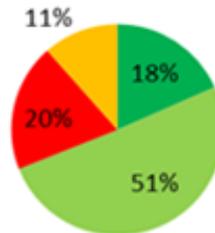
3. Would you say GLA licensing has created a more level playing field for competition

■ Significantly ■ Slightly ■ No Impact ■ Difficult to Say



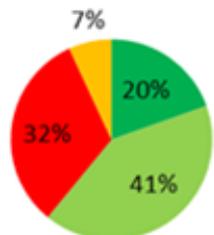
4. Would you say that GLA licensing has reduced fraud/illegal activity?

■ Significantly ■ Slightly ■ No Impact ■ Difficult to Say



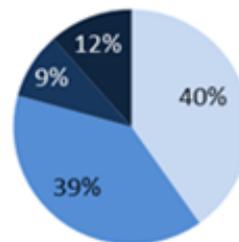
5. Would you say that the GLA licensing has improved conditions for workers?

■ Significantly ■ Slightly ■ No Impact ■ Difficult to Say



6. What is the turnover of your business?

■ Under £1M ■ £1M-£5M ■ £5M-£10M ■ Over £10M



Future Focus of the Gangmasters Licensing Authority

The Association proposes 20 areas in accordance with the Government's *Transforming Regulatory Enforcement* agenda (see above) and the [Regulators' Compliance Code](#) that the GLA should address "to better target non-compliant operators and reduce burdens on the compliant" as follows:

A. Effective Policy & Strategy

1. Publish a new strategy that concentrates enforcement activities on businesses engaged in wholesale abuse of workers or tax evasion. GLA should in consultation with others, identify and explain the principal risks against which they are acting. They should set, measure and publish clear standards and targets for their service and performance which include: regulatory outcomes (capturing the principal risks); costs to regulated entities of regulatory interventions; and perceptions of licence holders about the proportionality and effectiveness of regulatory approach and costs.
2. With Defra, provide clear guidance on its scope across identified grey areas. Allow businesses who were reasonably unaware that they fell within the remit, time to be licensed.
3. Work with Defra to modify the Exclusion Regulations, to provide clarity on scope of licensing.
4. In accordance with the Macrory characteristics, the GLA should measure and publish outcomes not just outputs.
5. Review the scope of its sanctions and penalties policies and to modify these to be consistent with the Macrory principles.
6. Allow microbusinesses to pay a lower licensing fee.
7. Allow licence holders who are making VAT/business structure changes for legitimate business reasons to transfer their licence or to be able to acquire a new licence at minimal cost.

B. Fair Process

8. Introduce a stage in the licensing decision process to allow a licence holder to put their case before a final decision is taken, to be in line with the Regulators Compliance Code and natural justice.
9. Issue ALCs where more than 30 points are scored but breaches are of a relatively minor or technical nature.
10. Issue licensing decisions within four weeks of an inspection or provide an interim notification.
11. Review Active Check process so that it is not unfairly damaging to licence holders. At present the fact that an inspection has taken place is interpreted by some as there being a problem.
12. Provide appropriate means to ensure that regulated entities can reasonably seek and access advice without directly triggering an enforcement action. Such information requests to be logged and subject to a customer service level agreement.
13. Licensing Team to clarify their interpretation and application of certain licensing standards and decision processes to ensure that these are in line with law, GLA procedure and proportionality.

C. Constructive Stakeholder Engagement

14. Create effective consultation and feedback opportunities to enable continuing cooperative relationships with regulated entities and other interested parties. GLA should accord appropriate regard to the Liaison Group.
15. Implement a revised communication strategy which focuses on stakeholder information rather than media releases.
16. Simplify relevant policies and procedures and consolidate online advice and guidance.
17. Review how it demonstrates that it responds to intelligence provided. Perception of failing to act on information provided.

D. Good Inspection Practices

18. Inspectors to receive re-training to provide a less heavy handed and more supportive / advisory role to businesses who seek to comply.
19. Inspectors to be re-trained on the limit of their responsibility and need for confidentiality.
20. Implement a feedback system to receive comments regarding the behaviour and activity of inspectors and other enforcement staff.

The ALP and GLA

Much of the Association's workload is spent dealing with matters arising from the licensing regime of the GLA. The Association's position with regard to the GLA is:

- To support the GLA to rid the industry of unlicensed and exploitative gangmasters.
- To challenge the GLA where the Association believes it is acting inconsistently, disproportionately or inappropriately.
- To work with the GLA to ensure that unreasonable burdens are not imposed on legitimate operators.

To gain and retain the goodwill of legitimate labour providers the GLA must be able to demonstrate to the industry it regulates that it is effective in driving out the rogue gangmasters and establishing a "level playing field".

Where the GLA engages with bodies representing licence holders, the outcome has been positive for all parties. The Association will continue to seek positive engagement with the GLA to achieve continued improvement in the licensing regime for its members.