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THE GLA AND SUPERMARKET PROTOCOL

RESPONSE BY THE ASSOCIATION OF LABOUR PROVIDERS TO GLA CONSULTATION

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Comments on the draft GLA and Supermarket protocol Introduction

On 1 December 2009, the GLA began a second consultation on a protocol between the GLA, leading supermarkets and suppliers, which seeks to establish common principles for how the GLA, supermarkets and suppliers will work together. Responses are sought by 22 January 2010.

The ALP has over 250 labour provider members, almost all of which are licensed by the GLA and which provide labour to the suppliers of the supermarkets. The Association therefore has a significant interest in the consultation.

The Association is generally satisfied with the draft protocol, which is significantly improved compared with the earlier version. The Association has one general and two specific comments.

The general comment is that the protocol seems to allow the supermarkets to take some credit when breaches of the licensing rules are found in their supply chain. While this can be justified in some cases, in others the breaches may result from the downward pressure that supermarkets put on the prices that their suppliers charges, which in turn can result in suppliers being unwilling to pay realistic charge rates to their labour providers. It is disappointing that there is nothing in the protocol which requires supermarkets and their suppliers to ensure that rates paid to labour providers are realistic.

In the course of its work the GLA will become aware of whether particular suppliers or supermarkets seem more lax than others in ensuring compliance on the part of their labour providers. It is important to avoid a position in which a supplier or supermarket can turn a blind eye, for example for tax evasion, and then share the credit when the GLA takes action. The Association expects the GLA to take a robust

approach with suppliers and supermarkets which are discovered to have a disproportionate amount of non-compliance in their supply chains.

The two specific comments relate to the section “Working Together”.

Firstly, with regard to paragraph 11 – 13, the GLA has now included suppliers and the suppliers’ ethical auditors with retailers in its approach to “working together”. The GLA has chosen to exclude representatives of labour providers from this “working together” approach. The GLA is missing an opportunity for the whole supply chain to be involved to work together. The effectiveness of this approach will be enhanced by including labour providers and so ensure full end-to-end support.

Secondly, with regard to paragraph 12 –

“The GLA will actively work with retailers and their suppliers to produce and continually review best practice guidance to help prevent exploitation within supply chains.”

The GLA is a regulator, well resourced and with a wide range of powers compared with other regulators. Its role is to enforce legal requirements not to develop “best practice”, which can quickly have the status of regulation. This should be amended to read –

The GLA will actively work with retailers, their suppliers and their labour providers to produce and continually review guidance to help ensure compliance with regulatory requirements within supply chains.

GLA and Supermarket Draft Protocol

Introduction

1. This protocol establishes a common understanding of how the GLA will work with retailers and their suppliers to ensure all parties participate in ensuring the proper application of the GLA licensing standards in the food supply chain. It provides a framework for the relationship and details what the outcomes of will be.
2. This document is intended to be a living and working process containing an actionable series of steps to reduce worker exploitation.
3. The term supplier in this document includes entities which supply the retailers. Where the context requires it also means labour user. While most signatories to this agreement are in food retailing, it applies equally in flowers and other produce covered by the GLA.
4. The GLA is required by law to carry out its functions and nothing in this agreement precludes any such action by the GLA.

Terms of the Protocol

Sharing Information

5. Retailers and their suppliers have access to information that may be of assistance in identifying breaches of the GLA's licensing standards. The GLA would welcome access to this and in return will provide information on the outcomes of operations and where possible will work with retailers and their suppliers on identifying and preventing exploitation.
6. There should be a designated single point of contact (SPOC) within the GLA and each retailer and supplier for the exchange of information. It is expected that the individual who takes on this role will have sufficient seniority to be responsible for the exchange of information and an understanding of how sensitive information should be handled. In the GLA, this will be the responsibility of the Intelligence team using the intelligence@gla.gsi.gov.uk email address or 0845 602 5020. To avoid delays when the SPOC is not able to read emails, it would be helpful to have a generic email address for information to be sent to which can be accessed by other designated contacts.
7. Whenever practicable the GLA will share the findings of its enforcement action within the supply chain. All parties in receipt of confidential information shared this way will maintain it as strictly confidential.

It is agreed that the retailers and suppliers will provide information to the GLA where it is believed serious breaches of the Licensing Standards may have occurred.

8. Retailers and their suppliers will request their respective suppliers to notify the GLA of significant issues which they identify. These issues should be notified to the GLA immediately by email, as they may indicate that enforcement action is urgently required to protect workers from exploitation or abuse.

It is agreed that retailers and their suppliers will encourage their respective suppliers to make available to the GLA any information which may indicate that serious breaches of the Licensing Standards have occurred.

9. Retailers recognise that they are able to sign up for the active check. The active check alerts subscribers to:
 - 9.1. Revocation with immediate effect;
 - 9.2. Revocation without immediate effect when the decision date is met or any appeal is determined;
 - 9.3. A labour provider has two entries on the register as this will potentially identify cases where a licence is being revoked; and
10. Liaison between suppliers and retailers on non compliance issues is encouraged and where suppliers identify issues with labour provision that can be rectified, they are encouraged to take action accordingly and to accurately record issues identified and corrective action taken.

It is agreed that the GLA will provide appropriate advice to retailers in such cases.

Working Together

11. The GLA will work alongside retailers and suppliers. The GLA would like to meet regularly with retailers and suppliers so that inspection findings can be disseminated to inform best practice
12. The GLA will actively work with retailers and their suppliers to produce and continually review best practice guidance to help prevent exploitation within supply chains.
13. The GLA will work with retailers' and suppliers' ethical auditors in order to encourage a consistent approach to those audits in the identification and prevention of Licensing Standards non-compliances.

Communications

14. Retailers and their suppliers will request their respective suppliers to register for the GLA's active check service and to ensure they have appropriate arrangements in place to receive alerts.
15. The GLA will maintain a list of those who have signed up for the active check.
16. Suppliers who use other businesses as part of their overall supply to customers are encouraged to make themselves aware of labour supply within those businesses and to ensure that all use of such labour is licensed, e.g. by using the active check. Issues where suspected breaches of licensing standards within lower tier suppliers is identified should be immediately reported to the GLA by whoever discovers it.
17. The GLA will publish twice a year details of enforcement operations or when appropriate a newsletter outlining a particular issue or concern will be forwarded to all stakeholders.
18. Where appropriate, retailers will invite the GLA to attend their supplier conferences to provide information on inspection findings and steps suppliers can take to eradicate worker abuse.
19. The GLA will send copies of their regular briefings to the retailers' and suppliers' SPOCs for dissemination to auditors as this provides information on licensing issues and legislative changes.

It is agreed that the GLA, retailers and suppliers, individually and collectively, will communicate regularly.

Action Following GLA Investigation

20. The GLA encourages all retailers and their suppliers to take decisive action following any operation which identifies serious worker abuse within their supply chain. The GLA will always respond promptly to requests for advice.
21. Where a GLA operation identifies abuse of workers in a retailer's supply chain, the GLA will inform all relevant parties of the findings. Ideally this should be in the form of a full debrief to take place at the supplier's site, and should be attended by all parties including a senior member of the GLA Management Team.
22. Those retailers and suppliers involved are requested to inform the GLA of what steps are to be taken in order to correct or eradicate the identified worker exploitation.

Retailers and their suppliers will take the necessary steps to ensure that exploitation of workers identified by a GLA operation is eliminated.

Publicity

23. Retailers together where possible with suppliers, will provide the GLA with contact details for their media team and a named point of contact. Retailers can contact the GLA press office on 0115 900 8962 or 07825 797130 or by using the communications@gla.gsi.gov.uk email.
24. Where appropriate, the GLA will acknowledge collaborative work with suppliers and retailers in its press releases and media engagement.
25. The GLA will work with the retailers' and suppliers' media teams on issuing joint press releases. If no agreement can be reached over a joint press release the GLA reserves the right to issue a release following revocation of a licence. If this is to contain reference to any retailers or suppliers, the GLA agree to notify those prior to the information being passed to the press.
26. The GLA will advise the retailers' or suppliers' SPOC of any approach made for interview or comment.

Protocol Review

The purpose of the review is to ensure that the Protocol is a living, working process and is an actionable series of steps which reduce worker exploitation.

Retailers and supplier representatives and the GLA will meet at least every six months to improve practice, discuss progress and issues and exchange views and information.

Retailers and supplier representatives, and the GLA will review the Protocol annually.

What We Have Agreed

Retailers and their suppliers will provide information to the GLA where it is believed serious breaches of the Licensing Standards may have occurred.

Retailers and their suppliers will request their respective suppliers make available to the GLA any information which may indicate that breaches of the Licensing Standards have occurred.

The GLA will provide appropriate advice to retailers and suppliers in such circumstances.

The GLA, retailers and suppliers, individually and collectively, will communicate regularly.

Retailers and their suppliers will take the necessary steps to ensure that exploitation of workers identified by a GLA operation is eliminated.

Retailer and supplier representatives and the GLA will meet at least every six months to discuss progress, issues and exchange views and information.

Retailer and supplier representatives and the GLA will review the Protocol annually.