



Camberley House  
1 Portesbery Road  
Camberley, Surrey  
GU15 3SZ  
Tel: 01276 509306  
Fax: 01276 761076  
Email: [info@labourproviders.org.uk](mailto:info@labourproviders.org.uk)  
Website: [www.labourproviders.org.uk](http://www.labourproviders.org.uk)

2<sup>nd</sup> September 2014

## **Consultation on prohibiting employment agencies and employment businesses from advertising jobs exclusively in other EEA countries**

**WRITTEN SUBMISSION BY THE ASSOCIATION OF LABOUR PROVIDERS**

### **Contact**

David Camp, ALP Director, Tel: 07855 570007, E-mail: [David@alliancehr.co.uk](mailto:David@alliancehr.co.uk)

### **Introduction**

The Association of Labour Providers (ALP) is a trade association supporting and representing organisations that supply seasonal, agency and contingent labour into the UK food production, horticultural and agricultural sectors. The ALP has approximately 270 organisations that voluntarily choose to be members of the Association on payment of an annual subscription and commitment to abide by the ALP Constitution. ALP member organisations supply approximately 60-70% of the temporary workers into the food supply chain. All organisations that supply labour into these sectors are required to be licensed by the Gangmasters Licensing Authority (GLA). The ALP provides a range of services to help labour providers achieve labour standards compliance and good practice.

### **Consultation Purpose**

The Government wants to create a level playing field for workers by requiring employment agencies and employment businesses to ensure that all job vacancies are advertised in Great Britain and in English.

The consultation seeks views on a proposal to amend the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended) to include a new regulation which would require that before or at the same time as an agency or employment business advertises a GB vacancy in an EEA state other than the United Kingdom, it must advertise it in English in Great Britain. This does not apply if the agency or employment business first advertises the GB vacancy in English on a website accessible both from the EEA state in question and from Great Britain.

### **Response**

The ALP supports the proposal to amend the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended). With regards to the specific Consultation questions:

**Question 1 a) Do you think that the draft regulation meets the Government's objective of creating a level playing field for workers in Britain by prohibiting employment agencies and employment businesses from advertising jobs solely in other EEA countries?**

NO.

**Question 2: If you answered 'no' to Question 1, why do you think that the draft regulation will not meet the Government's objective?**

Because enforcement is not resourced.

The Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended) and consequently this proposed legislation is enforced by the Employment Agency Standards inspectorate (EAS) based in BIS. In 2013 the Government reduced the size of this department to 2 officers. In reality therefore the Government has not resourced the enforcement of this proposal. As such it will be ineffectual.

The findings of the MAC report [Migrants in low-skilled work](#) found that at the very least:

1. Resourcing for enforcement activities needs to be enhanced.
2. Incentives to encourage compliance need to be improved. There is little incentive for rogue employers to be compliant given the minimal chance of inspection and even smaller risk of prosecution.
3. Organisational incentives among enforcement authorities would need to change,
4. More collaborative working among enforcement agencies should be promoted.

**Question 3: Do you agree that the regulation is appropriate to deal with recruitment advertising on websites? YES**

**Question 4a) We believe that the new regulation would both expand the range of job opportunities open to people in the UK and also expand the range of people that businesses can choose from. Do you agree?**

No, it will make no perceptible difference. The Equality Act already prohibits discriminatory practice on the grounds of nationality.

The ALP supports that the Equality and Human Rights Commission will look more widely at potential discriminatory recruitment practices by employers as well as agencies and businesses. The food sector has already examined such practices. The EHRC has already written guidance [Recruitment and employment in the meat and poultry processing industry - Complying with equality legislation](#) which with minor amendment will be able to be used across all sectors.

**4b) Can you see any downsides – in terms of costs or any other issues? NO**

**Question 5 a) Do you have any information about jobs that have been advertised solely in other EEA countries?**

There is no evidence, that the ALP is aware of, of non-compliance by the recruitment sector.

The Gangmasters Licensing Authority standard 5.7 Discrimination states that "A licence holder must not unlawfully discriminate against a worker or work seeker on the grounds of age, disability, gender

reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.”

In the two years from May 2012 to May 2014 the Gangmasters Licensing Authority found absolutely no non-conformances with this licensing standard. Not one.

The Home Office Migration Advisory Committee (MAC) in its July 2014 report [Migrants in low-skilled work](#) found that where MAC engaged with the private sector they found good evidence to support a very strong case of fair and proper treatment of migrant and UK workers with absolutely no indication of discrimination against UK workers. This was completely at odds with the portrayed perception of such employers. MAC added that the state of the migration debate is effectively forcing employers to hide the good work many of them are in fact doing

**Question 6: Do you have any other comments to add in relation to this consultation? YES**

Point 1. – This proposed legislation does not cover the food and agricultural sectors.

The consultation incompletely states that the “recruitment sector is regulated by the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003” and incorrectly states that the “legislation covers all employment agencies and employment businesses in England, Scotland and Wales”.

The Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 are disapplied for employment agencies/employment businesses that supply into the agricultural, shellfish gathering and food processing and is replaced by the Gangmasters Licensing Act and associated legislation. This is roughly 10% of the recruitment sector.

The consultation is silent as to what:

- Will be required in the sector regulated by the Gangmasters Licensing Authority (GLA).
- Is required of employment agencies and employment businesses based outside of Great Britain in other EEA countries that are directly approached by employers.

Point 2 – Government messaging is unhelpful in this area

- The overt and implied negative messaging against the recruitment sector on this matter is unhelpful, particularly where no problem of discrimination has been identified.
- Like many sectors the UK food and agricultural sectors are reliant on workers from the EEA. As labour supply tightens, the UK will face increasing competition with other EEA nations such as Germany for sufficient supply of labour to ensure that UK business is not hampered by an inability to access workers. The current government anti-EEA national immigration policy and rhetoric risks damaging the ability of UK business to source a reliable and quality workforce to meet its needs.