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WRITTEN EVIDENCE SUBMISSION TO THE IMMIGRATION BILL PUBLIC COMMITTEE

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Introduction

The Association of Labour Providers (ALP) is a trade association supporting and representing those organisations that supply seasonal, agency and contingent labour into the UK food production, horticultural and agricultural sectors. All organisations that supply labour into these sectors are required to be licensed by the Gangmasters Licensing Authority (GLA).

The ALP has approximately 270 organisations of all sizes 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 sectors regulated by the GLA.

The ALP provides a range of services to help labour providers achieve labour standards compliance and good practice in the supply of workers. The ALP is a lead development partner in “Stronger Together” (www.stronger2gether.org) - a multi-stakeholder UK initiative to reduce modern slavery in supply chains.

This paper outlines the position with regard to the regulatory framework for the recruitment and labour supply sectors. The paper focuses on maintaining a level, competitive playing field for business, reducing exchequer fraud and offering protection for vulnerable workers through intelligence led, proportionate enforcement.

ALP Evidence

1. Industry supports the licensing of labour providers

1.1. The July 2014 Home Office Migration Advisory Committee (MAC) report, [Migrants in low-skilled work](#), concludes:

“The counter-balance to a flexible labour market is to ensure that employers comply with the minimum protections for workers and that these are enforced. MAC found that the incentives to comply are weak. There are some serious gaps in protection, especially for migrant workers. There exist real disincentives for individuals to challenge poor employment practices and to raise grievances.

UK labour law is not providing a minimum level of protection in all cases resulting in a playing field that is not level. There is the risk of a continuum of exploitation starting with failure to pay minimum wages and ensure decent working conditions, leading to workers being forced to accept sub-standard accommodation, being forced to pay for things that they do not need through deductions from their wages, having their passport retained, and losing both work and accommodation with no prior notice.

The evidence is consistent with increasing migrant exploitation enabled by insufficient regulation of recruitment.”

- 1.2. The ALP conducts a biennial survey of labour providers’ views on the GLA. April/May 2015 survey results show the strongest support among business for licensing, a perception that the GLA is doing a good job and has improved conditions for workers and generated an improved level playing field:

| Licence Holders views on the GLA | 2008* | 2011 | 2013 | 2015 |
|--|--------------|-------------|-------------|-------------|
| In favour of licensing | 79% | 71% | 81% | 93% |
| Perceiving the GLA doing a good job | 69% | 49% | 55% | 73% |
| Significantly improved conditions for workers | 21% | 12% | 16% | 27% |
| Slightly improved conditions for workers | 39% | 30% | 47% | 52% |
| Significantly reduced Fraud/Illegal acts | 19% | 18% | 17% | 22% |
| Slightly improved Fraud/Illegal acts | 41% | 51% | 48% | 57% |
| GLA significantly improved level playing field | | 12% | 29% | 15% |
| GLA slightly improved level playing field | | 30% | 21% | 52% |

*2008 survey conducted by Universities of Liverpool and Sheffield.

2. The GLA licensing regime should be retained in the UK food and agricultural industry labour supply chain.

- 2.1. The GLA licensing regime, since its formation, has contributed to significant improvements in labour standards within the regulated sectors of food processing, agriculture and horticulture, and shellfish gathering. Legitimate businesses want, and have a right to expect, a “level playing field” in order to compete fairly within the law, as do those using their services. To enable this fair competitive trading environment to continue it is essential that a regulator is maintained within the food industry labour supply chain that effectively prevents rogue businesses from undercutting legitimate labour providers, either through tax evasion, worker exploitation or both.

- 2.2. Surveys of ALP members and GLA licensed labour providers consistently demonstrate strong support, currently 93%, in favour of the GLA licensing of labour providers. There is wide support for an intelligence-led, risk-based proportionate compliance and enforcement regime. Statutory licensing of labour providers sectors is also supported by retailers, growers and food producers for whom it facilitates a fairer competitive trading environment

and protection from reputation damage. To remove licensing would be a significant backwards step.

3. An appropriate balance between the GLA's mutually reinforcing activities of compliance and enforcement needs to be retained.

3.1. The GLA's remit is divided between "compliance" activity which is part of the Home Office "Prevent" strategy and ensures that new and existing licence holders comply with the GLA licensing standards and "enforcement" activity which is involved with enforcing the criminal offences of providing labour into the sectors regulated by the GLA without a licence and using labour provided by unlicensed labour providers. To retain the credibility of the licensing regime, an appropriate level of resources need to be allocated to compliance activities to ensure that there are not licensed, yet non-compliant, gangmasters.

4. The GLA should be given additional tools to better enable it to perform its role.

4.1. On 24 May 2012, the Minister of State for Agriculture and Food issued a Written Ministerial Statement announcing plans to introduce administrative fines and penalties for low-level and technical minor offences, including a measure similar to a Repayment Order to achieve rapid reimbursement to an exploited worker of wages or other payment which has been removed. This has yet to be implemented though is supported. Such measures will enable the GLA to better deliver access to remedy to workers and ensure a more level playing field for labour providers.

5. The remit of the GLA should be extended.

5.1. The Joint Committee on the Draft Modern Slavery Bill Report stated that the GLA. "has been much praised as an internationally-respected model of good practice. The weight of evidence we received suggested that expanding the GLA's powers and industrial remit would yield positive results."

5.2. It is extensively documented that exploitation of vulnerable workers is widespread across a number of high risk sectors in the UK. The GLA has developed a specialist expertise on uncovering human trafficking for labour exploitation and forced labour and there are undoubtedly benefits in joint working with other enforcement bodies to extend this knowledge and experience to other employment sectors.

5.3. Whilst there are sectors believed to harbour higher levels of exploitation, such as hospitality, care and construction, it is not proposed to limit the extension of remit to such defined sectors. Such definition of sectors is difficult to achieve (the draft guidance for sectors which come within the current scope of GLA licensing extends to 34 pages). The remit of such a body is better defined by the type of exploitation it enforces. The GLA

should have investigative powers into the more extreme forms of abuse of vulnerable workers. Such forms of abuse should be consulted upon during the review of the GLA. The GLA should be awarded investigative powers into employment businesses and agencies not currently subject to GLA licensing.

- 5.4. The GLA should remain as an Executive Non-Departmental Public Body (NDPB) with its own Board and budget.
- 5.5. The GLA should continue with its specialist remit on uncovering human trafficking for labour exploitation and forced labour. However, this role should be extended to all employers and employment businesses in all sectors and working with NCA, police, UKHTC and others to tackle this.
- 5.6. There should be a joined up approach with co-ordinated risk based tasking operations and sharing of intelligence databases between the GLA, Employment Agencies Standards Inspectorate, the National Minimum Wage Labour Provider Compliance unit and HMRC Specialist Investigations Labour Providers unit.
- 5.7. There should be Service Level Agreements developed between the GLA and Acas and the Modern Slavery Helpline to ensure that relevant intelligence is passed over to the GLA to facilitate the investigation of complaints.
- 5.8. The Government should appropriately fund the GLA to undertake its designated responsibilities.
- 5.9. Any extension of remit should not be at the expense of the removal of statutory licensing of labour suppliers to the UK food industry.

6. Burden on Business

- 6.1. The GLA does not place a burden on consistently compliant businesses. Instead it supports responsible business in being able to compete effectively on a level playing field.
- 6.2. The GLA conducts compliance inspections on only approximately 10% of licence holders in any year. These are intelligence-led inspections based on risk profiling and operational tasking where information has been received by the GLA that the licensing standards are being breached. The GLA has no reason, nor the resources, to visit “consistently compliant businesses”.
- 6.3. The only requirement for “consistently compliant businesses” is to complete the annual licensing renewal with payment of the appropriate fee.