

GLA 27/8.7

**Minutes of GLA Board
Liaison Groups**

25 November 2010

BOARD PAPER REFERENCE – GLA 27/8.7 – Minutes of GLA Board Liaison Groups

Issue

1. To update the Board on the work of the GLA Board Liaison Groups

Recommendation

2. The Board is invited to note the minutes of the Labour User Liaison Group, Labour Provider Liaison Group, and Worker Representatives Liaison Group.

Background

3. At its April 2009 meeting, the Board decided to create Board Liaison Groups for Labour Providers, Labour Users and Worker Representatives under paragraph 7 of the Gangmasters (Licensing Authority) Regulations 2005. All three Liaison Groups have been set up to advise the Board. Each group meets every four months and in sufficient time before each full Board meeting to do so.
4. In June 2009, the Board asked PW to chair the respective Liaison Groups for an initial 6 months period. Liaison Group members of all three Liaison Groups have expressed a preference for PW to continue to chair their meetings.
5. The Labour Provider Liaison Group met on 7 September 2010. Draft minutes of the meeting are attached at Annex A.
6. The Labour user Liaison Group met on 26 August 2010. Draft minutes of the meeting are attached at Annex B.
7. The Worker Representatives Liaison Group met on 22 September 2010. Draft minutes of the meeting are attached at Annex C.

ANNEX A MINUTES OF THE SIXTH MEETING OF THE LABOUR PROVIDER LIAISON GROUP – 11am, 7 September 2010, HELD AT Ergon House, Room 602, LONDON

Present:

Paul Whitehouse	Chairman, GLA
David Nix	GLA
Janette Bonham	GLA
Joanne Young	Right 4 Staff
David Camp	ALP
Mark Boleat	ALP
Chris Gorton	Heads UK
Tracy Alyanai	Industrious People
Lewina Farrell	REC
Konstantinos Makrygiannis	REC
Marshall Evans	Staff Line
Julia Brereton	Sastak

Apologies:

Claude Peters	Van Stomp
Nick Graff	Wise Employment
Robert Vitols	A La Carte Recruitment
Terry Godfrey	Tpg

1	Declarations of interest	Note: None
2	Minutes of last meeting	Note: • Agreed
3	Update on actions	<p>Note:</p> <ul style="list-style-type: none"> • Reviewed previous action points. DC to forward an email to DN regarding transport deductions. • Action 3. (Guidance on overseas issues) – agenda item – draft brief. • Action 4 (GLA to consider guidance re processing & packaging) – group advised there is a draft in progress which will be circulated to the group. • Action 5 & 6 (Employment Status) – this paper is due to come back to the board meeting in October. Nothing new to report. DC asked for sight of this paper before the board meeting, DN agreed this would be sent to the group as requested. • Group had previously mentioned cash flow problems and HMRC (DC to do a paper with agreed formal wording on) – DC has sent something to GLA and is awaiting reply from HMRC. DC will resend wording to DN. <p>Action</p> <ol style="list-style-type: none"> 1. DC to send DN email regarding transport deductions

		<p>2. Employment Status paper to be circulated to group prior to the October board meeting.</p> <p>3. DC to send DN HMRC wording.</p>
4	How Licensing applies to businesses based outside the UK – draft brief	<p>Note:</p> <ul style="list-style-type: none"> • DN asked the group to please read this brief and then let GLA know of any comments. • Generally DN advised that the GLA interpret supply as any passing of an individual from A to B (this is a wide interpretation to avoid loop holes). • DC suggested that we take out 'How to apply for a licence', this is duly noted. • LF asked how the GLA translate the overseas contracts as they are quite complicated, for instance if a contract stated subject to Polish law would that pose a problem in Britain. • CG said perhaps the Standards should say subject to English law. • DC stated that regarding one of the key points – overseas labour providers charging workers – he has an issue with this and how the GLA relate this with the Licensing Standards, fees and charges are very difficult to investigate. • DC said that the Brief focuses on supply, he feels it would be useful to show the implications of a labour user or labour provider who does not have a licence – could the GLA make this a stronger point. • PW suggested that perhaps the title of the Brief could change. • DC would like to see more information about the host employer. • LF suggested putting an annex in the brief with a list of the countries. <p>Actions</p> <p>4. Comments relating to this Brief to be sent by 24 September 2010.</p>
5	Employing and Supplying Romanian and Bulgarian workers – draft brief	<p>Note:</p> <ul style="list-style-type: none"> • DN advised that this brief is to be issued to give clear guidance as to the circumstances which A2's can work in the UK. • DC stated that HMRC say that UKBA's position is that if individuals are caught, stating that they are self employed when they are not, they are dealt with using the itepa legislation, could the GLA get confirmation of this. Generally, cases where people state they are self employed earning very low hourly rates, are increasing in popularity. This needs addressing. <p>Action:</p> <p>5. GLA to try and find out more information concerning the circumstances where the itepa legislation is being carried out.</p> <p>6. Group were asked to submit any comments relating to this brief by 24 September 2010.</p>
6	Impact on GLA of spending review	<p>Note:</p> <ul style="list-style-type: none"> • PW advised that the current rules were so tight that the GLA may not appoint anyone unless they were considered to be front line staff, we currently have a paper which has gone to the Secretary of State about this situation. • The GLA will advise the board when we have more information

		regarding the impact on the GLA of the spending review.
7	Interaction between GLA findings and forced labour offences in Section 71 of the Coroners and Justice Act 2009 and Section 47 of the Criminal Justice and Licensing (Scotland) Act 2010.	<p>Note:</p> <ul style="list-style-type: none"> • DC discussed the forced labour offence which is a new law – if people find instances of this to whom do they report to. • DN confirmed GLA do not have the power to investigate the forced labour offences.
8	Update on Sentencing Guidelines Council response to GLA Chairman's letter of concern about low sentences in enforcement cases.	<p>Note:</p> <ul style="list-style-type: none"> • PW advised a letter has been drafted to the Sheriffs Association and if and when a reply is received the GLA will advise the group <p>Action:</p> <p>7. Inform group if reply to letter is received.</p>
9	Travel & Subsistence update	<p>Note:</p> <ul style="list-style-type: none"> • PW advised that a number of inspections have been carried out but no results as yet. With one case at least, there was a question of a prosecution and another case possible false accounting. • PW stated it is very important that the GLA have correct intelligence etc before taking action. • DC asked whether with the change in law (due January 2011) do the GLA think it could be any easier, schemes are not being withdrawn at present, there are no changes. • DC stated that more umbrella companies are being given licences in the sector And questioned whether the businesses were actually the employers of the workers • CG said he would like to see the GLA do something about this situation. PW advised that the GLA need to make sure the case is water tight, if we lost an appeal it would send out the wrong signal.
10	Any other business	<p>Note:</p> <ul style="list-style-type: none"> • DC asked about the Macrory penalties. PW advised the GLA are still waiting to hear about this. • LF stated that with regard to the transfer of licences she still has issues with it. • MB advised that the ALP are seeing the Low Pay Commission concerning accommodation, transport etc. Not really expecting much to happen but will keep bringing this issue up with them.

		<ul style="list-style-type: none">• PW asked the group whether meeting every 4 months instead of 3 would be acceptable, this was agreed. <p>Action: 8. GLA to confirm anticipated timescales for acquiring Macrory penalties.</p>
11	Next meeting	Tuesday 11 January, 2011 – location London, venue to be advised.

ANNEX B MINUTES OF THE SIXTH MEETING OF THE LABOUR USER LIAISON GROUP**– 2pm, 26 August 2010 HELD AT NFU, Stoneleigh, Warwickshire**Present:

Paul Whitehouse	Chairman, GLA
Darryl Dixon	GLA
Janette Bonham	GLA
Tina Rutter	Emmett UK
James Potter	NFU
Sharon Cross	GS Marketing
Jon Tugwell	Fyffes
Shayne Tyler	Manor Fresh
Tom Easson	Ringlink Scotland
Helen King	Produce World
Colin Hall	50 Club
Fergus Morgan	2 Sisters Food Group

Apologies:

Des Campbell
 Claire Joyce
 Phil Hudson
 Shelly Webb
 Graham Bruce
 Steve Hardcastle
 John Morgan
 Sue Slade
 Mark Clark

1	Declarations of interest	Note: No declaration of interest.
2	Minutes of last meeting	Note: • Agreed
3	Previous actions	Note: • Previous actions were discussed, no actions outstanding.
4	GLA Operational update	Note: • DD gave a presentation on GLA operations. • Advised group that the GLA are currently working on an EU bid to secure officers, which should help to give a better penetration of migrant communities.
5	Supermarket & Supplier – group feedback	Note: • PW asked the group for feedback as to how they considered the protocol was working. • ST stated that with a recent revocation (Plus Staff 24) only Asda, M&S and Tesco informed him. • Other Labour User group members stated that they did not hear from some of the supermarkets.

		<ul style="list-style-type: none"> GLA will look into Sainsbury's and Waitrose not advising the supply chain. The next review of the protocol is on 6 October 2010, hosted by M&S. GLA hope that either Nigel Jenney or Shayne Tyler will be able to attend this meeting. SC confirmed that Labour Users do not rely on the supermarkets to give them information, they have their own systems in place to ensure they are up to date with information. <p>Action:</p> <ol style="list-style-type: none"> GLA to look into why some of the supermarkets may not be advising the supply chain.
6	Labour Users identifying worker exploitation document - Update	<p>Note:</p> <ul style="list-style-type: none"> The Labour Users Identifying Worker Exploitation document was originally put together by ST and FM with the help of the ALP. The ALP will be sending a document to their members concerning this. ST and FM stated that this paper is aimed at people who are unaware of exploitation happening, or how to spot it. ST stated that as a group the Labour Users can share their knowledge and experience of situations that may occur and help to guide others who they believe are unsure how to go about recognising and reporting problems. PW said that the guidance perhaps needed to be simpler with short basic questions asked that help people to "be aware". TE stated that he could see the point of the paper but agreed it needed to be shorter. Also believes that it is not for a farmer to be questioning people. The paper needs to be guidance only. The GLA advised that questioning employees could sometimes jeopardize ongoing operations . ST suggested the GLA produce a short and simple document for guidance. DD advised he has discussed this paper with the ALP, the GLA perhaps need to send a brief out on forced labour, identifying key problem areas where LUs could focus questions if they suspected forced labour. PW made the point that people need to be clear they only have to tell the GLA, which will then either deal with the problem or pass it on to the agency who can deal with it. The GLA will take responsibility once they are told. <p>Action:</p> <ol style="list-style-type: none"> GLA Forced Labour draft brief to be distributed to the group for comments.
7	A2 Nationals - update	<p>Note:</p> <ul style="list-style-type: none"> GLA brief will be issued shortly on employment status for A2 nationals. Invariably people are saying that they are self employed, they then go under the radar. The situation is now two seasons old. HSE, UKBA and HMRC all use the same questions to determine whether employees are self employed. We need to find out whether they are indeed self employed or if the reality of the employment relationship is different, which may raise question as to whether a

		<p>licence needs to be reviewed on "fit and proper" grounds. The LU needs to know whether workers are correctly self-employed otherwise they could end up with an unexpected additional tax bill.</p> <ul style="list-style-type: none"> • JP stated that HMRC were doing some enforcement this year but they could only go so far with this issue. If an A2 worker has a yellow card the farmer may be confused as to his status or put under pressure to give him work by the LP. • JP advised that often the farmers asked for legal advice on immigration matters which he is not qualified to answer, the immigration laws are so different that only licensed advisers may deal with these matters. The queries that JP receives often relate to SAWS workers who wish to stay on at a farm. • PW advised that the GLA will formally write to UKBA concerning these problems and secondly will get in touch with HMRC so that they can inform us which part of their organisation deal with the A2 problems and will inform the group of any outcome. <p>Action:</p> <p>3. GLA to contact UKBA and HMRC regarding A2 national problem and report back to the group.</p>
8	Any other business	<p>Note:</p> <ul style="list-style-type: none"> • TE discussed the WRS scheme. He is concerned that the ALP is saying that joining this scheme was voluntary when it is a requirement of employees (TE advised the ALP have tried to get rid of the WRS scheme). This scheme is running until April 2011. When an employee joins later in the year are they still required to join and pay the £90 up to April 2011 even if there are only a few months of the scheme left? • JP stated that there were a lot of misperceptions concerning the GLA (e.g. GLA only regulates migrant workers or unskilled workers). As this is not true could the GLA raise their profile a bit more by attending more events, to ensure that more people are fully aware of exactly what the GLA do. • PW asked if there were any specific sectors the GLA should concentrate on, JP advised livestock and dairy (pigs in particular). • ST asked if GLA know anymore about their budgets etc. PW responded that the GLA will not know until October 2010. • DD advised there is an EHRC meat industry report, which the GLA will be attending a meeting on, looking at implementation of regulations in this industry. • PW discussed with the group a change in frequency of meetings. Currently we meet every 3 months, PW proposed every 4 months. This was agreed by the group <p>Action:</p> <p>4. GLA will check the WRS scheme with the new director of the ETI.</p>
13	Next meeting	Wednesday 12 January 2011, London (venue to be advised)

ANNEX C MINUTES OF THE 6th MEETING OF THE WORKER REPRESENTATIVE LIAISON GROUP – 22 SEPTEMBER 2010 , HELD AT THE CAMDEN CENTRE, TUNBRIDGE WELLS.

Present:

Paul Whitehouse	Chairman, GLA
Tim Carter	GLA
Janette Bonham	GLA
Tadeusz Stenzel	Federation of Poles
Nick Clark	London Metropolitan University
Steve Kemp	GMB
Hannah Reed	TUC
Mike Emberson	Migrant Helpline
Ian Waddell	Unite

Apologies:

Don Flynn	Migrants' Rights Network
Diane Clay	South Holland Citizens Advice Bureau
Alison Fairman	Citizens Advice Bureau
Lesley Chester	Lincolnshire Community Foundation
Chris Burke	British Red Cross
Ruth Grove-White	Migrants' Rights Network
Jane Mordue	Chair of Buckingham and Winslow CAB

1	Declarations of interest	Note: None
2	Minutes of last meeting	Note: • Agreed
3 & 4	Previous Actions / 4. Worker Protocol	Note: • Action – GLA proposal for a Worker Representative protocol. HR advised TUC will have an initial conversation and will report back in next 6/8 weeks. TUC are developing a guide on basic employment rights which they will show to the GLA for comments. HR would like the employment guide and the proposed worker representative protocol to complement each other. PW advised that jointly they would mean more. Action: 1. HR to circulate TUC basic employment rights draft guide to JB.
5	GLA Brief on Forced Labour – draft (and ALP brief for info)	Note: • NC stated that the brief needed to be clear on the issues of forced labour and asked who benefited from the brief. PW advised this was

		<p>a document which would be guidance for all.</p> <ul style="list-style-type: none"> • TS asked whether the brief could be distributed to police forces. PW said there was no reason why it could not be sent to all the Chief Constables. NC asked could we distribute to ACPO and CPS. • NC stated that there were a couple of areas of the brief that might need to be clearer, e.g. page 4 – payment between employers for provision of labour, this does not appear to be specifically identified in the licensing standards. PW advised the standards will be reviewed in 2011 and we note this concern. • HR advised that it was very helpful that the GLA were developing this brief, TUC have not been able to take any cases forward at the moment as they have not come across enough established evidence. • PW advised that the GLA are well placed with our intelligence to discover forced labour and as always if anyone comes across instances of this please inform the GLA. <p>Action:</p> <ol style="list-style-type: none"> 2. GLA to circulate Forced Labour brief to ACPO, ACPOS and CPS. 3. GLA to note NC's concern regarding the licensing standards when reviewing.
6	GLA Brief on Employing & Supplying Romanian & Bulgarian workers - draft	<p>Note:</p> <ul style="list-style-type: none"> • HR advised this it is helpful for the brief to be prepared. TUC did not agree with restrictions, particularly "self employed" law as it risks exploitation of workers on less than minimum wage. HR asked how does the GLA plan to deal with the issues of posted workers? PW stated that the GLA do not believe there is much posting of workers but are aware of many people receiving below the national minimum wage, need to take this forward with HMRC (Robin Wythes). • PW suggested that members of the GLA Worker representative liaison group take issue with the government about this problem as many employers would consider there was no reason to put the workers on the national minimum wage while this loophole exists. • NC stated the employment law and tax laws are a problem for political and economic reasons, the restrictions on A2 workers mean their options are to leave the labour market in the UK, enforcement of the law makes the workers worse off because they lose their jobs. • PW said that often the workers were unaware of the rules which would be an advantage for the employer. Also there is a lack of clarity over which law it goes under. • HR advised the TUC are discussing the employment law with the treasury at present regarding whether a worker is self employed or not. • PW advised group the GLA have had a change of staff in licensing, David Nix now Head of Licensing. He should take a more robust view re enforcement. • SK asked whether the GLA had come across any problems concerning the E101 posting certificate. • PW advised that the GLA have come across cases where workers are not posted and in some cases the Bulgarian authorities have also been involved and dealt with the cases in Bulgaria. • IW asked who enforces the SAWS law. PW answered that both the

		GLA and Home Office were involved. There are only four agencies involved. There is a continuing debate about SAWS being wound up.
7	GLA Brief on overseas guidance - draft	<p>Note:</p> <ul style="list-style-type: none"> • HR commented that with regard to both GLA briefs there is a growth in the use of posting workers and thanks the GLA for their engagement in this process. • Immigration status was mentioned, what happens to individuals who have an uncertain status, the worry for them is they will end up being sent out of the country. Immigration status to be discussed again at another group meeting. • ME advised that sometimes information is given to the Migrant Helpline, they have developed confidentiality with UKBA etc, maybe the GLA can develop this if it is not already being done. • PW confirmed the GLA do work like this, our intelligence does not require people to give names we take into account anonymous information. The GLA enforce 'you do not have the right to work here' if people have been trafficked appropriate arrangements should kick in. • ME stated that there is a risk that UKBA will detain workers because they are not allowed to work in this country. • HR advised it is a problem, an initial enquiry regarding NMW could end up with someone being deported! Need to look at the potential implications of this in the GLA Worker protocol. • TS asked whether the GLA supply briefs to the relevant countries. PW advised that all information is kept up to date on the GLA website but GLA could ask if the briefs could be put on websites in different countries. • HR advised that the GLA should be commended for enforcing posted workers rights, the GLA are the only agency who do. UK unions believe that posted workers will be a new problem. Also the TUC's understanding of the problem indicates it is not just posted workers from the EU but outside as well. • HR asked the GLA to check the information in the first paragraph of the brief, could we strengthen the second sentence. Also broaden the list to include Health & Safety, Holiday pay etc. <p>Action:</p> <ol style="list-style-type: none"> 4. GLA to seek information from intelligence for figures on immigration status and discuss. 5. GLA will look into whether the GLA Brief could be put on other countries' websites. 6. GLA to look at first paragraph of the brief, particularly the second sentence.
8	Worker Welfare Strategy	<p>Note:</p> <ul style="list-style-type: none"> • PW asked for the group's view on this. When the GLA revoke a licence straight away the situation with workers is straight forward. If the GLA revoke but not immediately this can throw up difficulties for instance if an appeal is withdrawn, workers are not aware of the

		<p>situation until they no longer have work. There is no obvious solution to this problem, we hope that generally there will be a change. Also throws up other problems for instance with the dairy case recently the GLA could not close businesses down immediately as the welfare of the cows had to be taken into account.</p> <ul style="list-style-type: none"> • ME stated that the affect of the actions should not stop the enforcement of the rules despite what could happen to workers. PW confirmed that the GLA do enforce the rules. • ME advised that the consequences of enforcing the rules could result in many people being unemployed, and without accommodation. One way forward would be to discuss with local authorities to find emergency measures, maybe this could be incorporated into a brief explaining what to do in an emergency. PW reminded those present that the GLA already had such arrangements in respect of some Las. • HR advised that with the Agency Worker directive there is a potential for the agency having a duty to inform employees if a company is closing down. • AW advised that during his work sitting on local councils this problem regarding workers being left high and dry was discussed, the councils indicated that with more information they could change their risk strategy . <p>Action:</p> <ol style="list-style-type: none"> 7. ME to write a paper with guidance for a DCLG circular on what to do in an emergency (multi-agency response). GLA could then ask DCLG to distribute it to local authorities. 8. HR to email GLA re the Agency Worker point so that the GLA could include information in a revocation letter.
9	Press awareness (members campaigns / GLA opportunities)	<p>Note:</p> <ul style="list-style-type: none"> • AW discussed with group how his position as a Community Enforcement Officer within the GLA was working. • TC confirmed to group that the information gained by the Community Enforcement Officers was extremely useful. • TC also asked the group to advise of any related campaigns they were running and also could they let him know of any case studies as we would like to take these up. • HR advised that the TUC are developing a website and she will try and give the GLA some publicity on this, hopefully adding links to the GLA website. HR will contact the GLA when they are at a planning stage, also there will be a video and HR would like PW to be interviewed for this. He agreed. • TS advised group the Federation of Poles conference in Manchester had worked very well. The GLA were represented by Ian Livsey, Chief Executive, TS stated that many people had been unaware of the GLA's existence. There will be another conference organised and PW confirmed he would like to attend. • TS would like case studies to present at the next conference. <p>Action:</p> <ol style="list-style-type: none"> 9. HR to advise GLA re website links/ publicity opportunities and contact PW when interviewing for video is required

10	Rapier press release	Note: <ul style="list-style-type: none">• With regard to the Rapier press release, TC advised that this was the first significant prosecution.
11	Any other business	Note: <ul style="list-style-type: none">• No other business declared.
12	Next meeting	20 January 2011, 11am – Preston (venue to be advised)