



GLAA Brief

Issue 53 – July 2017

GLAA Powers under the Police and Criminal Evidence Act (PACE) 1984

This Brief provides information on the new powers available from 30 April 2017 in England and Wales to authorised GLAA officers, to support wider labour market enforcement. This Brief supersedes GLA Brief 51.

Introduction

The Immigration Act 2016 gives the GLAA stronger powers to tackle labour exploitation across the UK. Specialist officers, authorised by the Home Secretary, will have additional policing powers to investigate labour market offences outside the GLAA regulated sectors.

What are these powers?

Section 12 of the Immigration Act 2016 inserted a new section 114B into the Police and Criminal Evidence Act (PACE) 1984.

On 30 April 2017 regulations came into force which make the PACE powers available, with some modifications, to trained GLAA investigators. Officers will have powers of entry, arrest, search and seizure, and the use of reasonable force in the exercise of such powers.

What offences can the PACE powers be used to investigate?

Authorised GLAA officers may only use the PACE powers to investigate labour market offences, defined by section 3(3) of the Immigration Act 2016. See Appendix 1 (page 4).

How will the authorised GLAA officers using PACE powers identify themselves?

All GLAA officers carry identification. GLAA investigators who are authorised to use the PACE powers will carry an additional authority to confirm that position. Where they are required to use those powers they will explain that they are doing so, and will produce the additional authority.

What circumstances will the PACE powers be used in?

If a GLAA officer believes a person or business has committed labour market offences they can use the PACE powers to investigate.

The PACE powers can be used to investigate potential offences under:

- the Employment Agencies Act 1973 (EAA)
- the National Minimum Wage Act 1998 (NMWA)
- section 18 of the Gangmasters (Licensing) Act 2004
- the Modern Slavery Act 2015
- other related criminal offences (see Appendix 1)

The GLAA will focus its use of these powers on serious cases of abuse and exploitation, where there are **combinations** of labour market offences. We will work with our labour market partner organisations - the Employment Agency Standards (EAS) Inspectorate and Her Majesty's Revenue and Customs National Minimum Wage team (HMRC NMW) - to coordinate regulation, data sharing and investigations.

Breaches of **only** employment agencies or National Minimum Wage legislation will continue to be dealt with by the EAS inspectorate and the HMRC NMW teams respectively.

Investigations into forced labour offences may be conducted with the support of other agencies including police forces and the National Crime Agency.

What action might the GLAA take?

GLAA officers will use their PACE powers when investigating modern slavery (forced labour etc), employment agencies, or national minimum wage, offences. Working with the EAS and HMRC NMW teams, along with the Crown Prosecution Service, officers will consider whether prosecution, or other sanction, is appropriate.

GLAA officers will not use the powers in section 9 of the EAA or section 14 of the NMWA. They will pass the findings from their investigations to the EAS or HMRC NMW teams to decide whether prohibition or a notice of underpayment may be appropriate.

Use of Labour Market Enforcement Undertakings for single or multiple offences

The GLAA may consider the use of Labour Market Enforcement Undertakings (LMEUs) as an alternative to prosecution, where appropriate.

If an investigation into alleged multiple offences identifies a single area of non-compliance, the GLAA will generally refer the case to either the EAS or HMRC NMW team who may issue a single LMEU.

Where multiple offences are identified, the GLAA will consider whether a combined LMEU may be appropriate. If the business does not comply with the LMEU within the specified

time, a combined Labour Market Enforcement Order (LMEO) will be issued. If this order is breached, the GLAA may initiate a criminal investigation.

For further information on LMEUs and LMEOs, see [GLA Brief 50 - Labour Market Enforcement Undertakings and Orders](#).

Further information

1. If you any questions about this Brief, please contact the GLAA helpline on 0345 602 5020 or email imu@gla.gov.uk.
2. Press release: <https://www.gla.gov.uk/whats-new/press-release-archive/01072017-new-powers-for-law-enforcement-to-combat-slavery-and-labour-exploitation/>, 1 July 2017
3. For the latest news and updates from the GLAA:



Twitter: [@UK_Gla](#)



facebook: www.facebook.com/TheGlaa

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Appendix 1 Labour Market Offences (section 3(3) Immigration Act 2016)¹

The following offences may be investigated by authorised investigators of the GLAA using powers provided by section 114B PACE 1984:

- (a) an offence under the Employment Agencies Act 1973 other than one under section 9(4)(b) of that Act;
- (b) an offence under the National Minimum Wage Act 1998;
- (c) an offence under the Gangmasters (Licensing) Act 2004;
- (d) an offence under section 1 of the Modern Slavery Act 2015;
- (e) an offence under section 2 or 4 of that Act—
 - (i) which is committed in relation to a worker or a person seeking work, or
 - (ii) which is otherwise committed in circumstances where subsection (2) of section 3 of that Act applies;
- (f) an offence under section 30(1) or (2) of that Act which is committed in relation to—
 - (i) an order which was made on the application of the Gangmasters and Labour Abuse Authority, or
 - (ii) an order which was made under section 14 of that Act and which falls within subsection (4) below;
- (g) an offence under section 27 Immigration Act 2016 (breach of a Labour Market Enforcement Order);
- (h) any other offence prescribed by regulations made by the Secretary of State;
- (i) an offence of attempting or conspiring to commit an offence mentioned in paragraphs (a) to (h);
- (j) an offence under Part 2 of the Serious Crime Act 2007 in relation to an offence so mentioned;
- (k) an offence of inciting a person to commit an offence so mentioned;
- (l) an offence of aiding, abetting, counselling or procuring the commission of an offence so mentioned.

¹ Accurate at date of publication, but may be subject to subsequent amendment.