



Gangmasters &
Labour Abuse Authority

Building a new compliance strategy for the GLAA

Consultation

GLAA Response

July 2021

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1 Executive Summary

- 1.1 The Gangmasters and Labour Abuse Authority (GLAA) published its consultation document, “Building a new compliance strategy for the GLAA” on 18 December 2020 seeking views on how the GLAA should deliver its compliance activity in future. The consultation closed on 12 February 2021. This document sets out the GLAA’s response to the views provided and explains how the GLAA intends to change its approach to compliance activity.
- 1.2 The GLAA would like to thank all who attended the consultation events and those that responded to the consultation. The responses have been invaluable in assisting the GLAA in the design of a new compliance strategy.
- 1.3 The GLAA considers that by introducing our new compliance strategy we will have in place an approach that is responsive to the needs of our customers while recognising, the need for proportionate and targeted regulation that protects workers.
- 1.4 The GLAA Board has reviewed and approved the contents of this report, and the changes described in this response will be implemented over the next 12 months and will come into effect by July 2022.
- 1.5 The key changes are:
 - We will continue to conduct virtual application inspections in most cases. The compliance strategy will set out our policy for determining when we will conduct a physical application Inspection.
 - We will develop a resource plan for delivering more compliance inspections.
 - We will work with our partners to offer training and self-assessment tools to help businesses check their compliance.
 - We are committed to inspecting every licence-holder over a rolling five-year period.
 - We still conduct intelligence-led inspection but will also carry out random inspections each year.
 - We will explore new technologies that can help us collect the views of workers
 - We will continue to carry out new business compliance activity but not every business will receive an inspection. The policy on when an inspection is required will be set out in the compliance strategy.
 - We will conduct more unannounced activity to deter businesses from operating in a non-compliant way. We will set our approach to doing this in the compliance strategy.

- We will undertake a review of fees over the next 12 months as part of our work in preparing for the single enforcement body.¹

1.6 We have carefully considered the comments and thoughts of respondents and are confident that we can improve the delivery of our compliance activity.

1.7 We are committed to working with our stakeholders and so intend to seek views on the scope and content our new compliance strategy as it is being developed. The draft strategy will be shared with trade associations who represent those affected by the change in approach over the next month with a view to publication in August.

¹ <https://www.gov.uk/government/publications/labour-market-enforcement-strategy-2019-to-2020-government-response>

2 Introduction

- 2.1 The consultation took place during an eight-week period between 18 December 2020 and 12 February 2021. The GLAA received 11 formal written responses to the consultation of which the majority were from trade associations which represent the licensed sector. We also held four consultation events which were attended by over 100 people and a variety of organisations. Those who responded represented a wide range of interested parties including business representatives, employment agencies, trade associations, retailers, labour users and individuals.
- 2.2 A list of the consultation questions is set out at Appendix A.
- 2.3 A list of all those who provided a formal written response is at Appendix B.
- 2.4 Details of all the consultation events is at Appendix C.
- 2.5 The consultation sought views on the following questions:
- Whether there is a need for application inspections or if licences should be granted automatically?
 - Should the GLAA continue to conduct virtual application inspections?
 - Whether inspector resources should be focused on compliance inspections?
 - Whether we should look to external organisation to provide information to check compliance?
 - What should be the trigger for a compliance inspection?
 - Whether newly licensed businesses should be automatically inspected when they start trading?
 - Is there an appetite for businesses to be granted a longer licence if they could provide evidence of compliance?
 - Should the GLAA use more spot checks and thematic reviews to assess compliance?
 - Should the scope of licensing be changed where businesses are not supplying workers in the sector?
 - Should there be a review of licence fees?
- 2.6 This document summarises the consultation responses received and gives the GLAA's response to the consultation.

3 Response

- 3.1 As indicated above, the consultation sought views across a range of issues which relate to the way that the GLAA carries out its compliance activity. It is clear from the responses received that it was felt that the GLAA should make changes and improve the way that it delivers this activity.
- 3.2 We believe that by continuing to engage with our stakeholders throughout this process we can implement a strategy through which we can deliver an efficient and effective compliance. We are therefore committed to continuing to engage as we develop our new strategy.
- 3.3 The following explains how we have considered the responses received to individual questions and how they have influenced the new strategy.

The Demand for Application Inspections and the move to Virtual Inspections

- 3.4 In the consultation, we explored if there was still a place within our regulatory approach to carry out application inspections or whether applications should be granted automatically. This was on the basis that when a business applies for a licence they are not trading and so any inspection will be able only to assess processes and policies rather than how the business is actually operating. Additionally, there are generally no workers to be interviewed unless the business is supplying labour to other sectors. As past applications show, we grant the great majority of applications.
- 3.5 We also sought views on whether we should continue with virtual application inspections. Over the last 12 months, we have moved away from face-to-face inspection and conducted virtual application inspections in response to the COVID 19 restrictions.

Summary of Responses

Question 1

Do you think that the granting of a GLAA licence should be automatic (on application) or should there continue to be a system for vetting licence applications?

Question 2

Do you think that the GLAA should continue to conduct most of its application inspections virtually?

- 3.6 In the written responses it was felt that applications should still be vetted as otherwise the credibility of the licensing scheme might be undermined by allowing unscrupulous businesses to be granted a licence. For example, Focus on Labour Exploitation (FLEX) were concerned that the GLAA could disincentivize businesses to run compliant practices if they were automatically granted a licence. This could then lead to a greater risk of exploitation and non-compliance which would need to be rooted out at a later point.

- 3.7 Respondents also agreed, however, that the process could be run virtually. There were comments that although application inspections provided a “green light” to businesses to supply workers they could be conducted virtually which would free up resources for compliance activity. Respondents offered suggestions as to how the virtual process could be enhanced at the pre-application stage. This included self-assessment questionnaires or online assessments.
- 3.8 It was highlighted by some respondents that if the initial desk-based review was sufficient, then an inspection should not be required in all cases. The Association of Labour Providers (ALP) recommended that physical inspections should be retained in those cases where it was deemed appropriate.
- 3.9 Having considered the responses, we have concluded that it would not be appropriate automatically to grant an application licence. We recognise that scrutiny of applications is essential to retaining the credibility of our licensing scheme. We are also committed to putting in place a process for applicants that ensures they are fully prepared for inspection. As mentioned above, some respondents recommended introducing an online test or self-assessment including the sign-posting of guidance or model documents. We will explore both how to deliver this pre-application support and how to use it to support the vetting of applications.
- 3.10 We will be moving away from the assumption of automatic physical inspection in most cases. We will still conduct such application inspections determined on a risk basis. However, such inspections will be undertaken where there are concerns around the competence of the applicant principal authority or if they failed to show they were fit and proper. Most of the verification work will, however, be desk conducted using virtual systems. We believe this will improve the time taken for applications to be considered and allow businesses to move promptly to being able to supply workers. We will set out in our compliance strategy our risk model which sets the indicators as to when we will conduct a physical application inspection.

Focusing Resources on Compliance Inspection

- 3.11 Respondents were asked if they felt that the GLAA should prioritise compliance work over undertaking physical application inspections. We explained that our view was that to do so would provide us with a better tool for checking compliance as the business inspected would actually be supplying workers. Compliance inspections also offer a vehicle to seek the views of workers who may not be aware of how a compliant business should operate or know how to report concerns.

Summary of responses

Question 3

Do you think that the GLAA should focus its resources more on compliance inspections rather than application inspections?

- 3.12 Respondents were generally supportive of this position. One respondent commented, “compliance inspections are where the majority of issues are identified, the company is in full operational supply and more evidence can be seen

of non-compliance”. The British Retail Consortium stated that, “Without sufficient compliance inspections, the risk of human trafficking and modern slavery increasing and being undetected will just continue to rise”. However, respondents also recognised that the GLAA has limited resources which need to be used effectively.

- 3.13 By shifting the focus of our activity from applications to compliance inspections, it was felt by respondents this would provide more resources for weeding out non-compliant businesses as we would have access to workers and be able to visit more sites to assess compliance. Several respondents indicated that to make best use of resources, compliance inspections should be intelligence-led so that unscrupulous operators are targeted.
- 3.14 We will develop a plan to be included in our compliance strategy on how we can better deploy our resources to the delivery of more compliance work. This plan will also include the commitments to change covered in the following sections.

Verifying Information to check Compliance

- 3.15 Views were sought as to whether the process of verifying compliance with the licensing standards at the point of application could be contracted out. The GLAA was advised by stakeholders that recruitment businesses are regularly required by retailers and other business partners to undergo an audit of their practices. The purpose of these audits is to assess compliance with employment law requirements and health and safety legislation. The purpose of using these audits for GLAA purposes would be to minimise the number of times that a business would be expected to share information with various organisations.

Summary of Responses

Question 4

Do you think the GLAA should explore whether application verification work could be contracted out to third parties?

- 3.16 There was a mixture of views on this question. Some recognised that there could be benefits to using evidence from third party audits. Other respondents felt that third party audits were not robust and the checking and verifying of the data would place a burden on the GLAA. It was highlighted that “...consideration should be given as to how robust the third party is at checking the applicant’s recruitment policies and processes, working conditions and other critical checks that the GLAA undertakes. Training and regular monitoring mechanisms would need to be put into practice to ensure that their third parties are maintaining the correct levels of vigilance as would be maintained in-house”.
- 3.17 There were also concerns about how quality and consistency would be maintained if this work was carried out by external parties. Respondents also questioned who would meet the costs of these audits and warned that the GLAA would need to monitor this work quite closely. It was also suggested that if third party audits were relied on, this could lead to disputes if a licence was not granted. Additionally, it was noted that much of third party verification focuses on the labour user and not the labour provider. Therefore, the outcomes of any audit may not be relevant to

assessing an application for a licence. It was pointed out that there could also be an issue as to whom owns the data and how it could be shared properly without causing data-sharing challenges.

- 3.18 We have considered these responses and have decided not to pursue this proposal. We believe that whilst we are seeking to free up compliance resources to focus on inspecting businesses, a reliance on third party information would place a further drain on our capacity. We consider that the burden of monitoring and quality assuring third party information would outweigh the potential benefits of using it.
- 3.19 One respondent suggested that we introduce a self-assessment questionnaire to help gather evidence of compliance rather than contracting out this activity. We will consider how we can use self-assessment tools to help with our compliance work and will set out our approach in the compliance strategy.

Compliance Inspections on Renewal

- 3.20 The consultation proposed the option of triggering inspections as part of the renewal process. This could be based on intelligence or randomly allocated. The aim would be, over time, for all licence-holders to receive a compliance inspection with this process taking several years. If based solely on intelligence received, the risk is that businesses who are not the subject of intelligence reporting may not be inspected for some time. We know from respondents that a lack of intelligence-reporting does not always indicate that a business is compliant. Bad practice or exploitation may not have been reported or recognised or workers may not know their rights or how to report issues.

Summary of Responses

Question 5

Do you think that the GLAA should adopt the option where compliance inspections would only be triggered by licence renewal?

Question 6

Do you think that all licence-holders should be inspected over a particular time period whether or not GLAA intelligence indicates a need for an inspection?

- 3.21 There was no support for inspections to be linked solely to the renewal process. One respondent noted that, "...license renewal is not an indication of risk. Focus should be where there are complaints/intelligence concerns, or a risk-based approach". On the question of whether all businesses should be inspected irrespective of any intelligence received, most respondents agreed that they should be allocated inspections on a risk basis. It was felt that with the limited resources of the GLAA team, the focus should be on those businesses which are judged as high risk through non-compliance. However, some respondents felt that if all businesses were not inspected, then businesses who were perceived as compliant by their actions would never receive an inspection.

- 3.22 Hope for Justice and the Slavery Free Alliance commented that, "...business compliance and due diligence can change over time too depending on the person/department that oversees this work. In addition, it would be important to have visits, which are unannounced". They noted that a business which was previously compliant can change its practices which may impact on its future compliance.
- 3.23 We recognise the varied views on this topic but believe that the risk profile for compliance needs to be developed further by moving to a process where all businesses would be inspected. We believe that our risk profile and understanding of exploitation will be enhanced if all businesses were subjected to a visit over a specific period of time. It would also ensure that businesses remained ready to demonstrate compliance if they did not know when to expect an inspection. We will explore how we can achieve this with our limited resources and set out the detail in the forthcoming compliance strategy.

Randomised Compliance Inspections and Intelligence-led Inspections

- 3.24 Prior to the consultation, a series of small workshops were held to help shape our thinking. One of the options identified was included in the consultation being the proposals of a hybrid approach to inspection which did not centre on the point of renewal. This would comprise a mixture of random inspections as well as the usual intelligence-led ones. The reason for this was that some businesses may not be the subject of intelligence reports, but that did not automatically guarantee compliance. Participants felt that if there was the potential for scrutiny at any time, this would keep businesses compliant as they would not know when an inspection might occur.
- 3.25 The consultation also offered the option that the GLAA could make more use of third-party audit reports, for example, by making these a requirement of the renewal process. However, it was noted that smaller businesses may not be subjected to audits in the same way as larger businesses are and this could potentially introduce a cost burden for those businesses.

Summary of Responses

Question 7

Do you think that a hybrid approach as explained above to triggering inspections would provide greater assurance on compliance?

Question 8

Do you think the GLAA should be looking to use evidence from third parties of compliance with the licensing standards to inform licence decisions?

Question 9

Please explain below any other options that you think the GLAA should consider.

- 3.26 Respondents welcomed a risk-based approach being used to trigger inspections. They recommended focusing on high-risk businesses. It was commented that there would be benefits to adopting this approach as it would allow the GLAA was focusing its limited resources on the highest risk companies. It would also offer assurance to labour users that the GLAA's compliance programme was investigating reports and intelligence thoroughly and acting on it.
- 3.27 It was also commented that spot checks offer a level of assurance to the GLAA and labour users that the risk assessment approach was working. It was also recognised that unannounced visits or spot checks would also work as a deterrent to disreputable companies which may be hiding their exploitative activities as they would be picked up by compliance activity. One respondent commented on the hybrid approach that it, "...would provide more assurance, more motivation for compliance and better use of resources provided that inspections were unannounced".
- 3.28 As stated above in relation to question 4, many concerns were raised about the use of third-party audits. Several respondents indicated that third party audits may not provide the information that the GLAA requires as they tend to focus on the labour user site and rely on a variety of methodologies which do not mirror the Licensing Standards.
- 3.29 One respondent recommended that the GLAA should request relevant policies on an annual basis and compare this with information found on the company's website. It was believed that this would help to identify where falsified documents were being used. Additionally, it was felt that the GLAA should seek feedback from workers by using channels such as an app or questionnaire as these would yield helpful intelligence and evidence of compliance.
- 3.30 The Recruitment and Employment Confederation commented, "A review of the inspection process would also be welcomed. There should be consistency in the steps taken and the clarity of the findings. A proportionate approach to regulation is essential. Businesses are keen to understand the process and work with the GLAA to prevent labour exploitation".
- 3.31 We will consider how the risk profile can be used to identify high-risk businesses which would then be prioritised for inspection alongside intelligence-led inspection. This profile will be made public so that all businesses understand our approach. We will also look at how we can make better use of different types of intervention so that we just focus on allegations of non-compliance with specific licensing standards. We will also explore how we can use our internal governance process to improve consistency in the delivery of our operational processes. We will also be looking at how we can improve the processes that we use to communicate with workers. This will ensure that we get a better picture of what may be happening in a business. Our approach in these areas will be set out in our compliance strategy.

New Business Inspections

- 3.32 The consultation sought views on whether we should continue to conduct an inspection of all licence-holders who have started to supply workers. We proposed that this should be replaced by an awareness visit that would provide an opportunity

for engagement and to check the business understands how it can remain compliant. This would not be a formal inspection and could be conducted in person or using virtual systems.

Summary of responses

Question 10

Do you think that the GLAA should stop doing new business inspections and replace them with awareness visits?

- 3.33 Most respondents felt that the GLAA should continue to inspect businesses once they were supplying workers within the sector. The general view was that as the application inspection is more focused on processes and policies, it was essential that compliance with the Licensing Standards was checked. It was suggested that to assess the credibility of the licensing scheme, these inspections were required to build a picture of the risks in the sector. One respondent commented that, “Based on risk alone, new businesses should be a high priority”. They felt that the newness of the business was a factor in determining the level of risk.
- 3.34 REC identified a hybrid approach: “We believe that new business inspections should continue, but the resource should be divided between both new inspections and awareness visits. The initial inspection can be done virtually...and the awareness visit can be used to increase the GLAA's understanding of how businesses are operating on the ground - ensuring ongoing compliance”. REC is keen for the GLAA to have a good understanding of the sector in order to build a risk profile.
- 3.35 There were several comments that awareness visits would not be beneficial for the GLAA in weeding out the non-compliant. However, one respondent commented that, “...conducting shorter awareness visits would allow in-person meetings and would give the GLAA the chance to prevent poor practices by highlighting risks up front”.
- 3.36 Given the strength of feeling around new business inspections, we will continue to carry out new business compliance activity. We will also consider as part of the future review of fees whether there should be a cost for this activity. We agree with REC's suggestion that not every business will require an inspection and so will look to develop a risk profile which determines when an inspection is required; for example, a brand new business which has never operated as a labour supply business would be inspected. The risk profile will be set out in our compliance strategy.

Longer Licences and Earned Recognition

- 3.37 The consultation sought views on whether licence-holders should be afforded the opportunity to “earn” a longer licence by demonstrating compliance. It was suggested that compliance could be evidenced using third party audits. The consultation highlighted that there is no scope currently to discount the costs of longer licences, but that it would mean a business would not be inspected.

Obviously, if intelligence indicated an inspection was required during the period of the licence, this would occur.

Summary of Responses

Question 11

Do you think that if businesses were able to demonstrate that they are compliant with the licensing standards through a form of “Earned Recognition”, they should be able to pay for a longer licence?

- 3.38 There were mixed views on this approach as some respondents felt that there were no benefits to business of being granted a longer licence. Respondents also noted that there may be unintended consequences as businesses with longer licences may drift into poor practice. FLEX responded that: “A longer licence could encourage businesses to relax procedures that ensure compliance until the extended renewal date. A business could change its approach and treatment of workers depending on internal systems and management, which requires compliance to be monitored”. However, it was also noted by some respondents that this could incentivize businesses to remain compliant.
- 3.39 It was also highlighted by respondents that there would need to be a process to rescind the longer licence if something was to change in the business such as ownership. Concerns were also raised that any upfront cost for a longer licence may not make it viable for smaller businesses. Most respondents commented that intelligence-led inspections should occur despite a longer-licence being in place.
- 3.40 Having considered the responses we feel that it would not be appropriate to introduce longer licences. Given the earlier comments on the quality and consistency of third-party audits, we do not think they would provide the necessary evidence of compliance. There is also no scope to discount the fees at this point.

Spot checks and Thematic Reviews

- 3.41 The consultation recognised that many stakeholders believe licence-holders should expect to prove compliance at any time. They favour an approach whereby licence-holders should be “kept on their toes” by introducing spot checks or thematic reviews against individual licensing standards. The consultation sought further views on this approach.

Summary of responses

Question 12

Do you think the GLAA should conduct more “spot checks” and/or thematic reviews and, if so, what do you think should trigger these?

- 3.42 Respondents were positive about the GLAA using a proportionate approach to compliance activity. However, it was noted that other types of possible GLAA activity such as spot checks and or thematic reviews should not take priority over intelligence-led inspection work where serious non-compliance had been identified.

The general view was that such activities could be conducted if there was capacity within the organisation but that they ought to be unannounced or short-notice to get a true picture of compliance.

- 3.43 Respondents recognised that spot checks and or thematic reviews could be done differently from inspections. It was commented that: “These would not necessarily need to be in person as businesses could be asked to present documentation virtually if it is something that the GLAA should reasonably expect to be in place anyway. However, on site visits should make up some of the mix”.
- 3.44 It was also identified that there would be benefits in going to the place where workers are located rather than a labour provider’s office. One respondent commented that: “We welcome increased spot checks of Labour Users – where the workers are employed and feel this is a better use of resources should they be available after ‘intel led’ activities”. Another respondent suggested that: “These should be split into two categories, some should be completely ‘at random’ and for the others these should be based where there are particular concerns, for example in a geographical area where there has been heightened activity of poor practice, or where intelligence suggests a particular industry is very high risk at a given time (e.g. fresh produce in the peak season)”. It was also suggested that spot checks could be carried out when a business changed ownership.
- 3.45 FLEX recommend that the GLAA should consider introducing “on the spot” fines for violations or other sanctions such as requiring reparation where a worker has been paid incorrectly. While the GLAA recognises the value of this approach, to do so is currently outside of our powers and would require a change in legislation.
- 3.46 Overall, the GLAA welcomes these comments and we will look to develop more unannounced activity to deter businesses from operating in a non-compliant way. We will set our approach to doing this in the compliance strategy.

The Scope of Licensing

- 3.47 As part of the consultation, we sought views on whether certain businesses should be prevented from applying for a licence where there was no intention to supply workers. The consultation also sought views as to whether businesses who were not supplying workers after a year should have their licence removed. Concerns had been raised by some stakeholders that these types of business should not be part of the licensed sector as they seem to have no “intention to supply” workers. Additionally, the consultation sought views as to whether a business should be allowed to have more than one licence.

Summary of Responses

Question 13

Do you think there are benefits to the regulated sector of expiring the licences of businesses which are not operating in the regulated sector after 12 months?

Question 14

Do you think that the GLAA should refuse to licence businesses where it judges they do not intend to directly supply workers into the regulated sector?

Question 15

Do you think there should be a limit on the number of licences that a business can hold to obviate the risk of a “life-boat” licence being granted?

- 3.48 Respondents felt that licensing could be limited if it was clear what an “intent to supply” involved. They recognised that this might be challenging, but felt that it was important to explore as such businesses have an impact on GLAA resources. However, one respondent commented that businesses may be disadvantaged when they are looking for business opportunities if they cannot prove intention to supply. Another respondent suggested that: “...maybe they could become a different type of licence in order for the GLAA to utilise their resources for inspections on those trading such as ‘not active’”. Further, respondents indicated that the definition of intent would need to be clear as “the application of this policy might not be so simple and would need some measurement indicators against it and clear processes in place”.
- 3.49 Specifically, around the issue of businesses holding more than one licence, it was commented that: “I am aware of some agencies gaining licenced businesses as a safety net should their licence be revoked so they can TUPE all the workers to the other business”. Respondents were also unsure why a business may require more than one licence and so agreed restricting to one licence should be policy. It was noted that businesses with more than one licence were usually putting in a place a “safety net” in case their existing licence was revoked.
- 3.50 When considering these responses, we have looked at what powers we have within the Gangmasters (Licensing) Act 2004² (the Act) to:
- Prevent businesses from applying for a licence if they don’t intend to supply workers;
 - “Remove” a licence at renewal if the business is not supplying workers after 12 months; and
 - Prevent businesses from holding more than one licence.
- 3.51 Taking each point in turn, we have looked at the powers available to the GLAA and whether there would be a requirement to introduce more legislation if there was a need to change our existing approach. The Act was introduced to set the parameters for licensing and the exclusions to licensing are set out in separate regulations³. We do not know whether these issues were considered when the legislation was drafted. However, the GLAA has never prevented a business from applying for a licence or revoked a licence because the business was not supplying

² [Gangmasters \(Licensing\) Act 2004 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2004/11)

³ [The Gangmasters Licensing \(Exclusions\) Regulations 2013 \(legislation.gov.uk\)](https://legislation.gov.uk/uksi/2013/1000)

or intending to supply workers. We also do not prevent a principal authority from holding more than one licence.

- 3.52 On the first point, it is clear that applicant businesses before being granted a licence should not be supplying workers into the regulated sector. Section 12 of the Act specifically prevents the supply of workers without a licence. There is, however, nothing specific in the Act which requires an applicant to provide evidence that they will be supplying workers when seeking a licence. We do ask applicants to tell us which sectors they wish to supply into, but we don't ask them to confirm they will definitely be supplying workers to those sectors. We understand that some businesses seeking a licence will be looking to win a contract or may be speculatively considering new business opportunities. This could mean that they cannot be specific as to when, or if they will be, supplying workers. To prevent these businesses from applying for a licence the GLAA would need to test their "intent". When a business applies for a licence it may genuinely intend to supply workers, but, as it is not yet licensed, will not have a contract or formal way to prove intent. We believe it would be difficult to define what evidence would meet this requirement. We also consider that it would be difficult for us to determine that there is no such intention and thus to refuse to grant a licence on that basis. Any decision to refuse a licence is appealable and could lead the GLAA to have to engage in costly judicial proceedings.
- 3.53 Any change would require the GLAA to revise the licensing scheme as proof of intent is not currently part of the scheme's requirements. We have concluded such proof of intent would be difficult to assess as applicant businesses cannot supply workers in the regulated sector. Considering the above, we have decided that we will not be preventing any business from applying for a licence on this basis. In coming to this decision, we are also mindful that we should not be a barrier to entry for business and should provide a level playing field for businesses to operate within. By implementing this change there could be the unintended consequences of preventing businesses from winning contracts as they cannot get a licence.
- 3.54 On the second point, there is no licence condition expressly requiring a licence-holder to supply within the regulated sector within 12 months of being granted a licence. Licence-holders are required to inform the GLAA once they start to supply workers. This allows us to schedule any new business inspection. The discussion above regarding intention to supply equally applies here. It would be difficult to prove what the intention of the business was around the supply of workers. Additionally, any decision to revoke the licence would be appealable which would have an associated cost. We do not consider we should introduce a change to the regulations so that this would become a requirement of the scheme. We recognise that some businesses may never supply workers, but they must remain compliant with the Licensing Standards and would be subject to inspection. There is no evidence to suggest that businesses not supplying workers are any less compliant than those who do supply workers. We have confirmed that we will be doing more compliance inspection work and so these businesses will be placed under greater scrutiny.
- 3.55 On the third point, this is also not a requirement of the licensing scheme. A business cannot apply for an additional licence using the details of its existing licence such as Companies House number or Unique Tax Reference. Each

application should relate to a separate legal entity, although the applicant principal authority can hold more than one licence as would be the case with a group of companies. We recognise that some licence applications could be perceived as a “lifeboat” if the business suspects its licence may be in jeopardy. We also know that some unscrupulous operators who have lost their licence may ask an individual to front an application on their behalf. However, any application for a licence is subject to scrutiny and the applicant must show competence, fitness and propriety. The GLAA can, and does, refuse licences where it is clear that the applicant is not fit and proper to hold a licence.

- 3.56 We believe that the requisite safeguards to prevent “lifeboat” licences are in place. Every application is subject to a series of robust checks with our colleagues in other government departments. Additionally, we will still carry out an application inspection if we believe that an application is not genuine. We are also confident that our new compliance approach will weed out those businesses who are holding a licence “just in case”.

Licence Fees

- 3.57 The final area of the consultation sought views on whether the GLAA should review its fee structure once this consultation was complete.

Summary of Responses

Question 16

Do you think that once the GLAA has completed its review of compliance activity it should then review its licence fee structure and subject the outcomes of that review to formal consultation?

- 3.58 Most respondents agreed that there was merit in looking at the fees structure. One respondent commented that: “if inflationary increases haven't even been implemented, they should be.” And it was also recognised that “...Reviewing the licence fees should reflect the changes that are needed to ensure compliance is being met”. The ALP suggested: “...a licence fee structure which does not impose the regulatory cost burden on compliant businesses but applies a fee for intervention mechanism whereby businesses are proportionately financially impacted for their own non-compliant behaviour”.
- 3.59 The comments made by respondents supported the need for a review of the fee structure. There have been no inflationary increases with fee levels remaining unchanged since 2009. Given the proposed changes to our compliance activity, we need to ensure that our fees regime is in line with government policy on managing public money⁴. The standard approach is to set charges to recover full costs.

⁴ [Managing public money - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

3.60 We will undertake a review of fees over the next 12 months as part of our work in preparing for the single enforcement body.⁵

4. Next Steps

4.1 We have carefully considered the comments and thoughts of respondents and are confident that we can improve the delivery of our compliance activity. We will introduce the changes set out in this consultation over the next 12 months.

4.2 We are committed to working with our stakeholders and so intend to seek views on the scope and content our new compliance strategy as it is being developed. The draft strategy will be shared with trade associations who represent those affected by the change in approach over the next month with a view to publication in August.

⁵ <https://www.gov.uk/government/publications/labour-market-enforcement-strategy-2019-to-2020-government-response>

List of Consultation Questions

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Question 2

Do you think that the GLAA should continue to conduct most of its application inspections virtually?

Question 3

Do you think that the GLAA should focus its resources more on compliance inspections rather than application inspections?

Question 4

Do you think the GLAA should explore whether application verification work could be contracted out to third parties?

Question 5

Do you think that the GLAA should adopt the option where compliance inspections would only be triggered by licence renewal?

Question 6

Do you think that all licence-holders should be inspected over a particular time period whether or not GLAA intelligence indicates a need for an inspection?

Question 7

Do you think that a hybrid approach as explained above to triggering inspections would provide greater assurance on compliance?

Question 8

Do you think the GLAA should be looking to use evidence from third parties of compliance with the licensing standards to inform licence decisions?

Question 9

Please explain below any other options that you think the GLAA should consider.

Question 10

Do you think that the GLAA should stop doing new business inspections and replace them with awareness visits?

Question 11

Do you think that if businesses were able to demonstrate that they are compliant with the licensing standards through a form of “Earned Recognition”, they should be able to pay for a longer licence?

Question 12

Do you think the GLAA should conduct more “spot checks” and/or thematic reviews and, if so, what do you think should trigger these?

Question 13

Do you think there are benefits to the regulated sector of expiring the licences of businesses which are not operating in the regulated sector after 12 months?

Question 14

Do you think that the GLAA should refuse to licence businesses where it judges they do not intend to directly supply workers into the regulated sector?

Question 15

Do you think there should be a limit on the number of licences that a business can hold to obviate the risk of a “life-boat” licence being granted?

Question 16

Do you think that once the GLAA has completed its review of compliance activity it should then review its licence fee structure and subject the outcomes of that review to formal consultation?

List of Respondents

Organisation
Association of Labour Providers (ALP)
British Retail Consortium
Ethical Trade Initiative
Focus on Labour Exploitation (FLEX)
Food Network for Ethical Trade
Fresca
Greencell
Hope for Justice and Modern Slavery Alliance
John Lewis Partnership
Recruitment and Employment Confederation (REC)
Unity Resourcing

Consultation Events

Pre-Consultation Events

Date of Event	Host	Attendees
30/9/20	GLAA	Recruitment and Employment Confederation, Labour providers
1/10/20	GLAA	Labour providers
5/10/20	GLAA	Labour users, Association of Labour Providers and labour providers
7/10/20	GLAA	Fresh Produce Consortium, Association of Labour Providers and labour providers
11/11/20	GLAA	Auditors
9/12/20	GLAA	Retailers

Consultation Events

Date of Event	Host	Attendees
21/1/21	Association of Labour Providers	ALP members
2/2/21	British Retail Consortium	Retailers
10/2/21	GLAA	Labour providers and labour users
11/2/21	GLAA and Matthew Taylor	Auditors, Welsh Government Officials and labour providers and users