



Gangmasters
Licensing Authority

Licence Decision Policy

August 2016



Introduction

1. The Gangmasters Licensing Authority (“GLA”) protects workers in agriculture, shellfish gathering and associated processing and packaging sectors. The GLA operates a licensing scheme for those acting as a “gangmaster”.¹ This document explains the GLA’s process for making licence decisions.

GLA Licensing Team

2. The GLA Licensing Team is responsible for making any decision in relation to a licence. This includes whether to grant a licence, impose conditions on a licence, suspend or revoke a licence.
3. Licence decisions are evidence-based. This evidence may be gathered from inspections as well as from information shared with the GLA by other Government departments and enforcement agencies (including the police and authorities in other countries).

GLA Licensing Standards and the Inspection Process

4. Applicants and licence holders must comply with the Authority’s Licensing Standards² in order to be granted and to keep a licence.
5. GLA inspections may be conducted as part of the application process or after a licence has been granted. The inspection will test the relevant licensing standards. During an inspection, an applicant or licence holder may be asked to give details of any current contracts with clients. The inspection may include visiting clients’ premises to check the place of work, interviewing workers and requests for documentation in order to check compliance.
6. The GLA inspector will explain the inspection process³ and provide applicants and licence holders an opportunity to comment on any identified compliance issues. The inspector does not make a decision at the end of the inspection. Instead, the findings of the inspection will be submitted to the Licensing Team after being quality controlled to check the consistency of the evidence reported. The inspection report will detail any identified non-compliances with the Standards.

¹ As defined under Section 4 of the Gangmasters (Licensing) Act 2004. See: www.legislation.gov.uk/ukpga/2004/11/contents

² The GLA Licensing Standards can be downloaded from the Authority’s website (www.gla.gov.uk)

³ An information sheet explaining what to expect during a GLA inspection will be issued prior to or at an inspection. Alternatively, it is available on the GLA website or from the GLA helpline.

7. More guidance on the GLA inspections is available in GLA Brief 26: The Inspection Process.⁴
8. The Licensing Team may conduct its own enquiries with a licence holder or applicant without the need for a physical inspection where appropriate. In these circumstances the Licensing Team will write to the licence holder or applicant directly outlining the information required.

Making a Decision

9. In making any decision which affects a licence, the Licensing Team will review all relevant information to determine whether the business is compliant with the licensing standards. This may include:
 - The inspection report (where an application or compliance inspection has been conducted) as well as any other evidence that has been submitted or obtained in support of the inspection,
 - Information received from other Government departments and agencies (including the police and authorities in other countries), or
 - Information submitted by applicants or licence holders (including when a licence is being renewed).
10. As part of the licence decision process, the GLA may write to an applicant or licence holder and request further information.
11. The Licensing Team may also make an interim licence decision. Where an interim licence decision is made, the Licensing Team will outline its provisional conclusions where it considers a Licensing Standard or Standards to have been failed. A request will be made for an explanation and / or supporting evidence in order for the matter to be considered further.
12. An interim licence decision is not the final decision of the Licensing Team. The GLA will review all of the relevant information and evidence provided prior to making its final licence decision.
13. This evidence is used to determine the business's level of compliance with the licensing standards. Each standard has an associated points score. The scoring system determines whether the applicant or licence holder is compliant with the licensing standards. The review by the Licensing Team will result in an overall score.

⁴ All GLA Briefs are available to download from the GLA website: <http://www.gla.gov.uk/publications/gla-brief-and-licensing-news-guidance-for-supplying-workers/>

14. Standards designated as “critical” are worth 30 points. All other standards are worth 8 points, except licensing standard 1.4 which can score up to 16 points. There are three possible outcomes:

No issues identified

For applicants, a licence will be granted. There would be no change for existing licensing holders.

Inspection score is below 30 points

Additional Licence Conditions (ALC) will be attached to the licence. An ALC is a specific requirement which a licence holder must comply with. Usually, ALCs will be against individual non-Critical standards where non-compliances have been identified. The licence will become conditional on those non-compliances being corrected. The decision letter will explain what measures need to be taken to rectify identified non-compliances.

Inspection score is 30 points or more

The application or licence will usually be refused or revoked. However, the GLA may consider attaching ALCs where it is proportionate to do so after considering the extent and nature of the non-compliance.

15. The GLA will also usually refuse applications where it is proportionate to do so in the following circumstances:
- If an applicant, proposed Principal Authority or any person named or specified in the application has been found not to be fit and proper. This applies for at least two years from the date of that decision.
 - Where an applicant, proposed Principal Authority and any person named or specified in the application has been refused or revoked twice within a two year period. This applies for at least two years from the date of the second decision.
16. The GLA will consider automatically refusing an application in the following circumstances:
- If an applicant, proposed Principal Authority and any person named or specified in the application is found to have been connected to someone who has been deemed not to be fit and proper. This applies for at least two years from the date of the fit and proper decision.
 - Where an applicant, proposed Principal Authority and any person named or specified in the application is found to have been connected to someone who has been refused or revoked within a two year period. This applies for at least two years from the date of the fit and proper decision.

17. Paragraphs 10 and 11 apply if standards 1.1 and 3.1 have been failed. These paragraphs will also apply if standards 3.2 and 3.3 have been failed where forced labour has been identified. This policy will apply unless exceptional circumstances can be demonstrated to justify why the application should be considered on its own merits.

Refusing an Application

18. Where a decision is taken to refuse an application, the business has the opportunity to request a review of the decision within 10 working days if it believes factual information used to make the decision is incorrect. The Licensing Team will review its decision in light of any factual evidence provided. Corrective action taken after the original decision will not be taken into account. There is still a right to a formal appeal if the review of the decision confirms the application should be refused.

Revoking a Licence

19. Licences may be revoked with or without immediate effect. A revocation with immediate effect means the business must stop acting as a gangmaster immediately or within 5 working days from the date of the decision. This is regardless of any appeal that may be made.
20. Where a business is revoked without immediate effect it must stop acting as a gangmaster 21 working days after the date of that decision. A business can continue acting as a gangmaster during any appeal process if a licence is revoked without immediate effect and an appeal is made within 20 working days after the date of that decision⁵.
21. The licensing standards specify which “critical” standard may lead to a licence being revoked with or without immediate effect. Licence revoked without immediate effect may be upgraded to with immediate effect should new evidence be identified which justifies such a response.
22. In all cases, the applicant or licence holder will be notified in writing outlining the GLA’s decision. This will include an explanation of what evidence the decision is based on. Where evidence of compliance has been requested but not produced, the Licensing Team may regard this as being non-compliant on grounds that the business is not fit and proper. Unlike refusals of licence applications, there is no pre-appeal process.

Suspending a Licence

23. In cases where the evidence indicates that a licence is likely to be revoked with immediate effect but there may be a delay in making the decision, the

⁵ Working day means a day other than a Saturday or a Sunday, Christmas Day or Good Friday, or a date which is a bank holiday under or by virtue of the Banking and Financial Dealings Act 1971 – The Gangmasters (Appeals) Regulation 2006

GLA will consider suspending the licence for a determined period of time. This action will be considered in exceptional circumstances where there is an identified need to urgently stop a business from acting as a gangmaster for example for worker protection.

24. If a licence is suspended, the GLA will write to business concerned explaining what action has been taken and confirm the period for which the licence will be suspended. The Authority will normally make a formal licence decision before the end of the suspension period. If that is not possible, the GLA will write to the business again explaining whether the suspension will be extended or not. If the suspension is to be extended the further period will be confirmed.

Proportionality in Decision Making

25. The GLA adopts a proportionate approach when applying the licensing standards. The GLA is concerned with identifying the more persistent and systematic exploitation of workers rather than concentrating on isolated non-compliances, unless such a non-compliance is “critical” in its own right.
26. In reviewing information gathered by an inspection, from a request by the Licensing Team or other source, the Licensing Team seek to make sure that there is sufficient and reliable evidence to demonstrate that there is a reasonable likelihood of systematic failure with the standard. Therefore, isolated incidences of non-compliance with non-critical standards may be discounted from the final Licensing Standards Score. In addition, the Licensing Team review the failed standards to ensure that there is no “double counting”, where two or more standards may have been failed for the same reasons.

Other Factors which affect a Licence Decision

27. There may be further circumstances which may prompt the Licensing Team to make decision that affects a licence. This includes:
 - Rejecting or refusing an applicant should the applicant not provide requested information, or
 - Removing a licence holder from the public register if they cannot be contacted or there is evidence that the legal entity ceases to exist.

Right of Appeal

28. There is a right of appeal against any decision by the GLA:
 - To refuse an application for a licence,
 - To attach conditions,

- To suspend or revoke a licence, or
 - To refuse the transfer of a licence
29. Details of how to appeal will be included in the decision letter. The Licensing Team will review new information that comes to light as part of an appeal if it brings into question the original decision.

Expired Licences

30. The GLA contacts licence holders explaining how they can renew the licence. This happens approximately six weeks before the renewal date. A second reminder is issued if there is no response to the GLA's first contact. If the licence is not renewed in time, the business will be informed that its licence has expired. A new licence must be applied for and be granted before the business is authorised to act as a gangmaster again. Any new application may be subject to a further inspection and checks with other authorities.
31. It is the licence holder's responsibility to renew in time. It is a criminal offence under section 12 of the Gangmasters (Licensing) Act 2004 to act as a gangmaster without a licence. Labour users who have subscribed to the GLA Active Check service will be notified that the licence has expired.

Sharing Information

32. The GLA may share evidence and decisions with other Government agencies and enforcement agencies who may decide to pursue their own investigation.

Further Information

33. Further advice and guidance on the GLA is available:

Online www.gla.gov.uk

By phone 0345 602 5020

By email licensing@gla.gsi.gov.uk