



Gangmasters &
Labour Abuse Authority

Licensing Standards Consultation GLAA Response

September 2018

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1 Executive Summary

- 1.1 The Gangmasters and Labour Abuse Authority (GLAA) published a consultation document on 22 May 2018 seeking views on possible changes to the GLAA Licensing Standards (the Standards). The consultation closed on 3 July 2018. This document sets out the GLAA's response to the views provided and how the GLAA intends to revise the Standards.
- 1.2 The GLAA would like to thank all those that attended the consultation events and those that responded to the consultation. The responses have been invaluable in assisting the GLAA in determining the appropriate changes to make to the Standards.
- 1.3 The GLAA has considered the responses to the consultation and how it intends to proceed with the proposed revisions to the Standards.
- 1.4 The GLAA considers that the revisions and changes to the Standards will make the Standards more relevant to the labour market of today as well as making them clearer and more transparent for licence holders and applicants. We also believe that they will protect vulnerable workers by ensuring that they are treated fairly and receive the protections to which they are legally entitled.
- 1.5 The GLAA Board has reviewed and approved the contents of this report and the changes to be implemented to the Standards.

2 Introduction

2.1 The consultation sought views on a number of proposed revisions and clarifications to the Standards. The proposed revisions and clarifications to the Standards covered:

- assessing whether an applicant/licence holder is fit and proper and compliant with the Standards by considering how they operate outside of the licensable sector
- the circumstances when a licence expires – retaining discretion to review whether a change of VAT number requires a new application (1.4)
- strengthening our review of forced labour/mistreatment of workers by including the International Labour Office (ILO) indicators (3.1)
- ensuring that applicants/licence holders have an agreement when they make a loan to workers (3.2)
- providing greater clarity on the payment of holiday pay and the requirement to allow workers to take leave (brigade requirements together in one Standard)
- providing greater clarity on what the GLAA considers to be a fee levied on workers and brigading all the requirements together (7.1), and
- removing requirements on applicants and licence holders to keep records so that the GLAA is consistent with the repeal of aspects of the Conduct of Employment Agencies and Employment Business Regulations. (7.3, 7.4 and 8.2)

2.2 Throughout the process the GLAA also sought views on how we could amend Standard 5.5 regarding confidentiality in light of the introduction of General Data Protection Regulation.

2.3 The consultation took place during a 6 week period between 22 May 2018 and 3 July 2018. The GLAA received 17 formal responses to the consultation, through online surveys and submissions. 9 people also attended the GLAA's consultation events and provided their responses to the consultation during those meetings. The respondents represented a wide range of interested parties including business representatives, employment agencies, trade unions, NGO's and individuals. A list of respondents can be seen at Appendix A.

2.4 This document is a summary of the consultation responses received and the GLAA's response to the consultation.

3 Response

Question 1: Does this revised section about assessing compliance make clear what level of compliance is required and what action the GLAA may take?

3.1 In the consultation document we proposed to clarify in part one of the Standards how the GLAA assesses compliance outside of the GLAA regulated sectors. We also outlined how we would communicate how we share information with our partners.

Summary of Responses

3.2 23 respondents to the consultation support the GLAA revising this section of the Standards. 2 respondents did not support the proposed revision.

3.3 Those that supported the proposal said:

- It provides clarity and is strongly supported. However, the GLAA needs to be cautious regarding the type of partner identified as it may impact on worker trust in the GLAA,
- The proposal takes into account the significance of non-compliance in non-regulated sectors, such as those highlighted at point 3.12 (consultation document), and the ability of operators to move between sectors,
- The revised section will help raise licence holders' and applicants' awareness of the level of compliance required and could play a role in tackling exploitation,
- The wording was very clear,
- The GLAA has undergone changes, therefore this aspect needs to be firmed up,
- It would open doors and help second tier clients and labour users to understand the requirements of the GLAA, and
- It is brilliant and welcomed.

3.4 Those that did not support the change made the following points:

- The proposal was contradictory and unfair. They consider different sectors operate to different standards which may be lower than the GLAA Licensing Standards, and
- The wording was unclear and the penalties needed to be more explicit as did reference to partner agencies.

3.5 The following points were also raised for consideration:

- Would this give those without a GLAA licence an advantage outside of sector?

- This might be more difficult for small businesses,
- Some businesses may forfeit their licence as they won't want to update what they do outside of sector,
- Why there is no proposal for this to be outlined in Licensing Standard 1.1?
- The revised section is not clear,
- How the GLAA will assess this and whether proportionality will be factored in, and
- Will this require legislative change.

GLAA Response

3.6 In terms of the clarification sought the GLAA can respond as follows:

- The GLAA is not introducing a new policy as we already operate on this basis, but felt it was important that our position is clear in the Standards,
- The GLAA is not extending licensing to other sectors but is merely ensuring that workers are treated fairly and that labour providers are acting within the law,
- The GLAA will not require licence holders and applicants to do anything other than comply with the legal minimum requirements. For example, the payment of national minimum wage is the same in all sectors. Where different sectors have different legal requirements this will be taken into account when licensing decisions are made,
- The GLAA's licence decision policy outlines how the GLAA factors in proportionality,
- The GLAA and most respondents considered the wording to be clear, therefore we do not intend to alter the suggested wording, and
- This will not require legislative change or an addition to Licensing Standard 1.1. The Gangmasters (Licensing) Act 2004 and the associated secondary legislation provides the legal basis for this. The GLAA does not need to amend Licensing Standard 1.1 as it is already drafted without reference to sector as the GLAA has always considered conduct in any sector when making an assessment of fitness and propriety.

3.7 The GLAA has considered the responses and the broad support regarding the GLAA's proposals. Therefore, we will add the wording in the introduction of the Standards as set out in our consultation document:

Workers employed by a labour provider should expect to receive the same fair treatment irrespective of which sector they work. If a business wishes to obtain or hold a GLAA licence the GLAA will consider its conduct beyond the licensed sectors as well as within them. This will be taken into account when making a

decision as to whether the business is fit and proper and its compliance with all of the Licensing Standards.

Question 2: Do you agree that Rule 5 should be amended by removing the requirement that a licence expires if a licence holder's VAT number changes?

Question 3: Do you agree that, if Rule 5 is changed, a licence holder should notify the GLAA within 20 working days that its VAT number has changed?

3.8 In this section we sought views as to whether the GLAA should remove the requirement to expire a licence where the legal entity doesn't change but the VAT number of the business changes.

3.9 We also sought views on whether a licence holder should notify the GLAA within 20 working days that its VAT number has changed.

Summary of responses

3.10 All but one respondent agreed with the GLAA's proposal for change regarding question 2. All respondents agreed that 20 working days was a sufficient period of time for notification of any change.

3.11 Those that supported the change said that:

- There were situations where the VAT number changes for legitimate business reasons and the legal entity itself remains unaffected,
- The proposal was sensible and 20 working days was reasonable whilst deterring phoenixing, and
- Failure to notify the GLAA should mean that the licence expires.

3.12 The following concerns and suggestions were made:

- Concerns were raised about potential abuse with regard to VAT registration. It was said that if this is implemented then it needs to be closely monitored,
- There should be ongoing monitoring to ascertain any adverse consequence of this move,
- How the GLAA can implement this without changing Rule 5 of The Gangmasters (Licensing Conditions) Rules 2009 (2009 Rules),
- Rule 5 has been critical in bringing about an end to the practice of phoenixing within the licensed sector. Therefore, the change needs to be balanced against the practice of phoenixing,
- It is not clear whether the GLAA will specify the particular circumstances when a VAT number changes and a new licence is or is not required or whether this will be determined on a case by case basis. The former is preferred for the sake of clarity,

- Licence holders should inform the GLAA of the proposed change to their VAT number before the change takes place and the GLAA should confirm at that stage whether a new application is required. This allows the licence holder to be aware before it determines whether to make the VAT change, and
- What is the penalty for non-notification?

GLAA response

- 3.13 This change will not alter the GLAA's position on tackling phoenixing. The GLAA is not proposing to remove the entirety of Rule 5. Where phoenixing occurs there is a change of legal entity and so a new licence will still be required. This change will be limited to businesses changing their VAT number where there is no change in legal entity.
- 3.14 The GLAA will update Rule 5 when legislative time allows, in the interim the GLAA intends to apply discretion and not enforce this aspect of Rule 5. This is taking a purposive approach as the purpose of Rule 5 is to ensure where there is a change in legal entity that a new licence is required. This will still be the case, it is only where there is no change in legal entity that discretion will be applied.
- 3.15 The GLAA will ask licence holders why the VAT number is changing when they notify the GLAA.
- 3.16 Overall there is strong support for this change. Therefore, we will implement the changes outlined in the consultation.
- 3.17 Licensing Standard 1.4 will include the requirement for a licence holder to notify the GLAA within 20 working days if the VAT number changes. The consequence of non-compliance will be 16 points on the licence for 12 months for consistency with Licensing Standard 1.4. We do not believe that it is proportionate to expire the licence in these circumstances.

Question 4: Do you consider Licensing Standard 3.1 should cover the indicators of forced labour not already expressly covered in the Licensing Standards?

- 3.18 In this section we proposed expanding Standard 3.1 to cover the ILO indicators of forced labour which were not already covered in the Standards. We advised that we would produce guidance that would sit alongside the Standards to give context to the additions.

Summary of response

- 3.19 All but one respondent agreed with our proposal to expand Standard 3.1 in the consultation. The respondent who did not agree said before they could fully support the proposal they required more information regarding the use of the word isolation.
- 3.20 Respondents that supported the proposal stated:

- The extension is supported,
- This would provide operational and strategic benefits by having more comprehensive, consistent guidance and focus would bring to GLAA and those national and international agencies and bodies engaged across the diverse scope of infringement and exploitation to better identify forced labour and coordinate appropriate action,
- It is logical to align Licensing Standard 3.1 with the ILO indicators of forced labour,
- It is an improvement and an important development, and
- This would align the GLAA's activities with best practice and other relevant institutions.

3.21 Most respondents put emphasis on the GLAA providing clear guidance around the additions to this Licensing Standard. Respondents commented that:

- This should take into account the ILO Guidance document entitled ILO Standards on Forced Labour, The New Protocol and Recommendations,
- The NGO/Worker Liaison Group should be engaged in the development of any guidance drafted by the GLAA,
- There are critical distinctions to respect with regard to typologies of vulnerability and any guidance would need to highlight the need for clear understanding of this and the challenges of other indicators for officers of the GLAA and other agencies,
- It is unclear what, “must pay due regard to the Equality Act (2010)” refers to or why this term is necessary,
- There should be the addition of the term in this standard, “which has the intention and/or effect of creating a situation of forced labour”. This is the matter to which these behaviours relate. It is essential that in the wording of this standard and these behaviours are set in the context of forced labour,
- The wording ‘due regard to’ the Equality Act is too weak and that this should be a critical factor,
- The GLAA must develop clear guidance that recognises that vulnerability can arise due to the behaviour of those looking to exploit individuals, and
- The Standard should add “a worker must not be subjected to sexual mistreatment”.

GLAA response

- 3.22 All respondents agreed in principal to the proposals put forward. One respondent did not support the entire proposal as they had concern over the definition of isolation.
- 3.23 The GLAA will only consider failing this Standard where it is proportionate and where there is evidence of forced labour or serious mistreatment of workers. It will not be used to revoke licences for one off minor breaches.
- 3.24 The GLAA will amend the Standard to cover sexual violence to workers.
- 3.25 The GLAA already has comprehensive guidance on how the GLAA considers the indicators of forced labour in its Spotting the Signs document. This was reviewed by the ILO. The GLAA will also produce guidance which will be issued before the new Standards come into force. Due to timescales this guidance will not be circulated to stakeholders prior to issue. However, should further guidance be required the GLAA will work with the Labour Provider Labour User and NGO Worker Liaison Groups on the production of such guidance.

Question 5: Do you consider Licensing Standard 3.2 should cover all loans from an employer to a worker?

- 3.26 The consultation invited views on whether the GLAA should cover all loans to workers rather than just loans to meet travel or other expenses required to take up a position.

Summary of response

- 3.27 All but one respondent agreed in general with this proposal. Some respondents believed this Standard already covered all loans. One respondent did not agree with the GLAA's proposals but did not provide any explanation.
- 3.28 Respondents that supported the proposal said:
- Broadening the definition to cover any loans and with written details in an agreement is a sensible one,
 - This is important in order to prevent victims' permanent state of indebtedness and related forced labour. Standard 3.2 should cover all types of loans made directly or indirectly from an employer and that to protect both parties they need to specify in writing on what terms such loans have been made/agreed,
 - This should not be a greater payment than the sum loaned,
 - Loans may be provided to workers to tide them over a difficult period. In all cases it is accepted that interest should not be charged, and the loan should be in writing. Licensing Standard 3.2 should be worded appropriately to not deter licence holders from providing loans where it is in the interests of workers facing financial challenges,

- A proportionate measure and removed ambiguity,
- This is a major issue at present,
- It is recommend that the terms of repayment should be in a language in which the worker in question is fluent, and
- Standard 3.2 should cover all loans but that it should go further to cover non-pecuniary as well as pecuniary elements of loans.

3.29 Further comments provided:

- There is a difference between a loan where interest can be charged and an advance of wages where interest cannot. They consider all loans should be covered but not all advances of wages, and
- GLAA guidance should set out how a combination of Licensing Standards are applied to fully understand and tackle potential situations of debt bondage, accounting for the limitations of the wording ‘the worker cannot be required to replay a sum greater than the sum loaned’ for capturing the complexities of debt bondage,
- It is not clear how the GLAA proposes to amend Licensing Standard 3.2 when amending the wording, as the proposed change appears to be at variance to the 2009 Rules, and
- Inclusion of the terms “labour user or any intermediary” as contained within the 2009 Rules are clearer than the current term “indirectly” that is used in the Standard.

GLAA response

- 3.30 The overall response was positive around the GLAA’s proposal to expand the loans covered by this Standard. The GLAA intends to amend the wording of the Standard as outlined in the consultation document. The GLAA agrees that the use of the words labour user or any intermediary is clearer than the term indirectly and therefore intends to amend the wording to reflect this.
- 3.31 The GLAA considers all loans (including an advance of wages which is a loan) should be covered by this Standard.
- 3.32 The GLAA does not need to change the 2009 Rules to effect this change as Licensing Standard 3.2 is concerned with debt bondage. The current wording (whilst reflective of 21(7) of the 2009 Rules) does not adequately deal with the purpose of this Standard. Therefore, the GLAA intends to bring this Standard into line with the ILO indicators of forced labour as per the expansion of Licensing Standard 3.1.

Question 6: Do you consider the proposed new Standard for holiday pay is clear and do you agree that it should have a sliding scale of points with a maximum of 30 points?

3.33 The consultation proposed introducing a new Standard which would brigade all of the requirements around holiday pay under one Standard. The non-payment of holiday pay is an area where workers are exploited therefore we wanted to consult on whether this suggestion would make the requirements for licence holders clearer and whether there should be a sliding scale of points.

Summary of response

3.34 Respondents were in general supportive of this proposal:

- The proposed new standard for holiday pay is clear,
- The proposed changes are supported and a welcome introduction,
- It should have a sliding scale of points with a maximum of 30 points,
- It most importantly appears to provide labour providers with the necessary clarity around how holiday pay should be calculated and paid, and
- The new Standard clarifies the importance of compliance with holiday pay.

3.35 Three respondents disagreed with the GLAA's proposals. In summary these respondents felt that:

- Workers don't take leave as they don't want to and the GLAA cannot require workers to take annual leave,
- A change to the Licensing Standards will not deter people from not paying holiday pay, and
- 30 points seemed excessive.

3.36 There were further comments made for the GLAA's consideration:

- This Standard should not lead to a licence being revoked with immediate effect as this is disproportionate,
- The wording needs to be considered to ensure it is clear,
- It is unclear if the GLAA will use additional licensing conditions (ALCs) to require the repayment of holiday pay,
- The wording around the third and fifth bullet point of the proposed new Standard need to be considered, and
- One respondent suggested the wording of the third bullet point should say "where a workers employment is terminated during the course of the leave year, a licence holder must give them payment in lieu of any accrued and unused holiday entitlement".

GLAA response

- 3.37 The GLAA considers the introduction of a Standard around holiday pay to be an important step and the majority of respondents support this proposal.
- 3.38 The GLAA intends to introduce Licensing Standard 2.5 however the wording will be re-drafted in line with the responses to the consultation.
- 3.39 The GLAA agrees that failure against this Standard should lead to a licence being revoked without immediate effect rather than with immediate effect. If there were wider issues and other critical Standards failed, a licence may be revoked with immediate effect if proportionate and allowed under the additional Standards.
- 3.40 During the 2011 Licensing Standards consultation the GLAA consulted upon whether it should consider putting an ALC on a licence where there have been breaches against Standard 2.2 or 3.3. The GLAA confirmed in its response in January 2012 that this would be applied where appropriate. This is still the case and will continue to be so for Standard 2.5.

Question 7: Do you consider that the expansion of Standard 2.3 to cover all benefits including pensions will provide clarity for licence holders? Should this Standard remain as non-critical and why?

- 3.41 The consultation invited views as to whether Standard 2.3 should be expanded to cover pay as well as records. It further sought views on whether this should also look at pensions and whether this standard should remain non-critical.

Summary of response

- 3.42 All respondents agreed that this Standard should be expanded to cover the payment of the benefits listed and that pensions should be included.
- 3.43 Those that supported the change said that:
- Expanding the Standard to reflect a wider range of benefits, including workplace pensions, should provide greater and much needed clarity for licence holders/applicants around the legal position for worker benefits, and
 - Standard 2.3 should be expanded to cover pensions and other benefits such as maternity and paternity pay.
- 3.44 There was a mixture of feeling as to whether this should be a critical or non-critical Standard.
- 3.45 During the consultation meeting, attendees agreed that this should remain non-critical. They differentiated between holiday pay and the other benefits as holiday pay has no qualifying period.
- 3.46 Of all other respondents, 7 of the 16 respondents thought that this should be made a critical Standard for the following reasons:

- This Standard should become critical following a similar logic to that applied to the wage theft argument set out in reference to holiday pay in question 6,
- Due to the nature and relevance of those benefits the Standard aims to cover as well as its correlation to the withholding of wages Standard, it should be moved to a 'critical' Standard,
- This should be critical. This can work to prevent exploitation and gender discrimination, and
- Non-payment is a statutory payment due to workers therefore it should be critical.

3.47 Those that thought this should remain non-critical said:

- It should remain non-critical due to the concerns around establishing if the worker is entitled to the benefits.

3.48 Respondents provided feedback that:

- HMRC can investigate issues identified by the GLAA,
- Deliberate avoidance of enrolling staff into an auto-enrolment workplace pension scheme should be referred to the Pensions Regulator. Subsequent prosecution may be reviewed by the GLAA under its fit and proper powers, and
- Non-compliance around pensions should be referred to the Pension Regulator before making any decision.

3.49 One respondent has suggested that the Standards should include reference to the identification of risks to women workers during pregnancy and take a role in enforcement of existing rights associated with pregnancy and maternity.

GLAA response

3.50 In line with the strong support around this proposal, the GLAA proposes to include workplace pensions in the list of benefits this Standard covers. We will also expand this Standard to cover payment of benefits.

3.51 The GLAA has considered the reasons put forward as to whether this Standard should be critical or non-critical. On balance the GLAA proposes to keep this Standard non-critical for the following reasons:

- The GLAA does not have the evidence that non-compliance with the payment of other benefits is as widespread as the non-payment of holiday pay. Where non-payment of these benefits is found it is more common that this is down to isolated incidents,
- Where the GLAA finds non-compliance regarding payment of these benefits, an ALC will be added to the licence to require payment both historically and going

forward where appropriate. If this ALC is not complied with then where appropriate the GLAA will revoke the licence, and

- If evidence is gathered to reclassify this Standard as critical, this can be reconsidered in the future.

Question 8: Do you agree with moving the wording in Standard 7.3 that relates to fees and service into Standard 7.1 and making it a critical Standard?

3.52 We asked for views on whether the wording from Licensing Standard 7.3 regarding fees and services should be moved into Standard 7.1 thereby making it a critical Standard. All respondents agreed with the suggestion.

Summary of response

3.53 Responses in favour of change said:

- Moving the wording to Standard 7.1 will ensure that hidden labour exploitation is given the critical status necessary to acknowledge its existence, clarify its importance, address and hopefully prevent the financial exploitation of workers,
- This proposal is supported. There have been cases where fees and services are loaned to workers at high rates, which can leave employees tied to their employer. This can be a particular problem in zero hour contracts where a lack of work can result in an employee unable to pay off loans. This also reflects the fact that there are particularly vulnerable groups, e.g. migrant workers, who have little knowledge of their rights in the UK,
- TUC supports this proposal and considers that it will provide greater clarity,
- The amendment to the wording is welcomed, but it is increased enforcement of this Standard by the GLAA that is required,
- The wording should relate to all possible payments that a worker might make in advance of taking up employment,
- There was a suggestion that the following underlined words should be inserted as follows, “A worker must be able to cancel or withdraw from any services provided at any time without incurring any detriment or penalty, subject to the worker being required to give no more than 5 working days’ notice or, for services relating to providing accommodation, no more than 10 working days”,
- ‘Training’ should be added as a work finding condition, and
- Not concerned about the change or about it becoming critical. Regardless of the classification of the Standard it should be complied with.

3.54 There was also a request from one respondent for clarification around the bullet point “giving or not withdrawing consent to disclosing information about that

worker”. They also thought that the time to cancel services was too short in some cases where a lot of time had been invested in providing the service.

GLAA response

- 3.55 We intend to move this part of Standard 7.3 to Standard 7.1 as outlined in the consultation document. We also intend to amend “giving or not withdrawing consent to disclosing information about that worker” to “giving or not withdrawing consent to disclosing information about that worker other than what is required for the work finding services”
- 3.56 The time for withdrawing from services is set under paragraph 8 part 2 of the 2009 Rules and the wording for this part of the Standard is lifted from the 2009 Rules also. The GLAA considers this to be clear therefore we do not intend to change this aspect of the Standard.
- 3.57 The GLAA has set out what it considers to be a work finding fee in GLAA Brief 38 and the GLAA takes appropriate action on the evidence we find.

Question 9: Do you agree that there would be no or very little impact on workers by removing these requirements from Standard 7.3, 7.4 and 8.2?

- 3.58 We asked for views as to whether the GLAA should amend Standards 7.3, 7.4 and 8.2 to align them with the Conduct of Employment Agencies and Employment Business Regulations 2003 as amended.

Summary of response

- 3.59 7 respondents agreed that there would be little or no impact under the proposals.
- 3.60 2 respondents agreed that the removal of 7.3 would have very little impact on workers and one said the removal of 8.2 would have very little impact on workers.
- 3.61 There were a significant number of respondents who did not agree with the proposals in this section of the consultation.
- One respondent had reviewed a number of red tape cutting measures in the past for their impact on workers and found that often the most insecure and vulnerable workers are left out of impact assessments. It would be wise for the GLAA to conduct its own assessment of the impact of removing these requirements on the most at-risk workers to ensure that the removal of these requirements does not inadvertently place workers at greater risk of exploitation.
 - We do not agree with the proposal to amend Standard 7.4 to remove the requirement to agree terms with the Labour User. These terms contain legal agreements which provide important protections for workers and provide clarity over responsibility. GLAA offers no argument as to why this should be removed. There is no requirement to align with the Conduct Regulations.
 - It is good practice for businesses and hirers to agree terms before workers are supplied. In particular the requirement for businesses and hirers to agree a

procedure if the worker is not satisfactory as this is an important safeguard against discrimination.

- If you remove Licensing Standard 7.4 labour providers will not be able to demonstrate how its charges are calculated and may not be able to enforce transfer provisions.
- Do not agree with the proposal to amend Standard 8.2 to remove the requirement to keep particulars relating to any other employment agency or business. This provides important information on second tiering and subcontracting. It is not clear how the GLAA proposes to amend these Licensing Standards when the 2009 Rules contain these provisions. To amend the wording as proposed appears to be at variance to the 2009 Rules.
- Licensing Standard 8.2 should be retained as it is a criminal offence to use an unlicensed gangmaster and keeping records is evidence of who has been used.

GLAA Response

- 3.62 The GLAA has considered the points raised through the consultation. However, the GLAA intends to proceed with the proposed changes to Standards 7.3, 7.4 and 8.2, in line with government policy. The GLAA does not have evidence that workers will be exploited by these changes, however if this were to be the case then this position could be reviewed in the future.
- 3.63 The GLAA does not currently replicate the entirety of the 2009 Rules in the Licensing Standards and we will update the 2009 Rules in due course. However, this will not prevent the GLAA from amending the Licensing Standards in the interim. This revision will reduce burden on business where there is no change in legal entity.
- 3.64 This does not prevent licence holders from having a labour user agreement, it just means that the Standards do not require this. The GLAA will still assess whether health and safety has been assigned and look at restrictions to charges to labour users.
- 3.65 Licence holders may also wish to keep a list of subcontractors bearing in mind the legal requirement to use a GLAA licensed subcontractor in the GLAA regulated sector.

General comments

Comment 1

- 3.66 A new standard should be introduced which would deal with the equal treatment rights under the Agency Worker Regulations or the current Licensing Standards being amended to reflect them.

GLAA response

3.67 The GLAA considered this under its previous Licensing Standards consultation. The outcome of that was outlined in Brief 22 which is applied today. For clarity Licensing Standard 1.4 currently requires the Principal Authority, directors, company secretary or partners to notify the GLAA if they are convicted of any criminal offence or receive an alternative civil sanction. The GLAA will add licence holders to this list and will require licence holders to notify the GLAA within 20 working days if they receive an alternative civil sanction, this includes findings of an Employment Tribunal (please see paragraphs 3.77 and 3.78 below). There is already guidance in the application form guidance around what may constitute an alternative civil sanction. However, this will be made clear in the guidance that is issued alongside the new Standards.

Comment 2

3.68 Two respondents would welcome an extension to licensing.

GLAA response

3.69 Any extension to Licensing is a matter for Government and would take into account the balance of evidence of risk in other sectors.

Comment 3

3.70 One respondent would like to see part one of the Standards signpost to the scope of licensing document, include information as to when an application inspection may not be required, and provide a description of licence suspension and interim licence decisions.

GLAA response

3.71 When an application inspection may be required is covered under Brief 28 which is currently being reviewed. The rest of the points are covered in the GLAA's Licence Decision policy. Both documents are on the GLAA website¹. The GLAA does not intend to incorporate this into the Standards document as they are separate policy documents which are more appropriately kept outside of the Standards.

Comment 4

3.72 One respondent asked for Standard 4.1 to be updated to include minimum room sizes in line with the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018, which comes into force on 1 October 2018.

GLAA response

3.73 The GLAA considers it sensible and proportionate to consider this under Standard 4.2 as this Standard concerns the licensing of accommodation and is a legal requirement.

¹ <http://www.gla.gov.uk/media/3449/licence-decision-policy-2016-feb-2018.pdf>
<http://www.gla.gov.uk/media/2352/gla-brief-issue-28-final.pdf>

- 3.74 We propose to amend Standard 4.2 to require a licence holder to comply with the conditions of a House in Multiple Occupancy licence. These conditions cover room size and maximum occupancy.

Other amendments to the Standards

- 3.75 The GLAA will make the following clarifications in the Licensing Standards to reflect changes to current legislation and policies.

Licensing Standard 1.1

- 3.76 The GLAA intends to update bullet point 4 to include the Rehabilitation of Offenders (Northern Ireland) Order 1978 to encompass the legislation in Northern Ireland.

Licensing Standard 1.4

- 3.77 The GLAA intends to clarify the wording at bullet point 2 to include the word “licence holder” and at bullet point 3 to include the word “liquidation”.

- 3.78 We are making these changes because where a licence holder is convicted of a criminal offence or receives an alternative civil sanction the GLAA need to be made aware as this may require further action.

- 3.79 Additionally, it is also important that where a licence holder goes into liquidation the GLAA are notified within 20 working days so appropriate action can be taken. This could be either cancelling the licence or undertaking checks to ascertain if there are breaches of the Standards.

Licensing Standard 2.2

- 3.80 We propose to include the term National Living Wage in this Standard (as this was introduced since the last version of the Standards came into force). Whilst the wording covers this by saying National Minimum Wage it could be clearer for licence holders and applicants.

Licensing Standard 5.5

- 3.81 The GLAA has reviewed the wording of Standard 5.5 in light of the GDPR. As a result we intend to change the wording to:

A licence holder must meet its responsibilities in terms of compliance with Data Protection legislation and ensure that personal data and information about workers is held securely and is not disclosed without consent or other legal authority.

- 3.82 We undertook consultation on this point at our consultation events and through the labour provider and labour user liaison group. In general, respondents were supportive of the change and thought that this made this Standard clearer.

Licensing Standard 6.4

- 3.83 The GLAA intends to add the wording "...a driver used by the licence holder to transport workers must...carry workers in a safe manner". The GLAA has always intended Standard 6.4 to cover this requirement through its current wording (a vehicle used by the licence holder to transport workers must...carry workers in a safe manner). However, in order to ensure this is clear we intend to add the additional wording to the Standard.

Annex A: List of Respondents

Consultation event
AG Recruitment and Management Ltd
GI Group Recruitment Ltd
Hops Labour Solutions Ltd
Jssina Ltd
National Farmers Union
The Recruit Venture Group
Response Recruitment Ltd
The Staffing Group Ltd
Staffline Recruitment Ltd

Online response
360 Recruitment
Mr Jeremy Boot
Concordia
Hops Labour Solutions Ltd
LMR
David Marshall
Office of the Independent Anti-Slavery Commissioner
Three respondents wanted to be anonymous

Written response
Association of Labour Providers
Focus on Labour Exploitations

Fresh Produce Consortium
Hope for Justice
London Fire Brigade
Recruitment and Employment Confederation
Trade Union Congress
Unite the Union