



Gangmasters
Licensing Authority

GLA 40/9.5 Enhancements to the Public Register

15 January 2014

Board 40/9.5 – Enhancements to the Public Register

1. Purpose of the Report

- 1.1 This paper reports on the implementation of changes to enhance the public register. This change stems from the GLA consultation exercise on the “red tape challenge” and related discussions at the July GLA Board.

2. Implementation key points

- 2.1 The GLA will implement the changes proposed from the RTC consultation, as agreed at the July GLA Board. The GLA has identified that the changes can be implemented without revision to current IT functionality. Therefore this paper advises the Board on the actions that will now be taken.
- 2.2 Preceding implementation the GLA will:
- Notify current appellants of the impending change, one month before a GLA Brief
 - Issue a GLA Brief to notify LPs of the changes, one month before the change is implemented
- 2.3 The GLA will also notify all LPs that become refused or revoked, of the new approach, where those decisions occur after notification to current appellants, and before the release of the GLA Brief.

3. Background

- 3.1 The consultation on RTC changes proposed enhancements to the information content of the public register. GLA Board paper 38/10 Appendix D set out those proposals¹:

The GLA consultation proposed that the public register should be enhanced to show the following situations:

- (from) “Licensed” to “licensed with additional licence conditions”,
- (from) “Licensed with additional licence conditions” to “licensed”
- (from) “Licensed” (with or without ALCs) to “revoked without immediate effect”.
- Cases at appeal (once the GLA has submitted its response to the notice of appeal) which will be shown under their status as “under appeal”

Following legal advice the GLA has concluded that it should publish the above situations after all appeal rights have expired.

However, in the case of revocations, whether with immediate effect, or without immediate effect, where the appeal has been lost by the appellant, that information should appear on the register for a period of 3 months before being removed.

¹ <http://gla.defra.gov.uk/PageFiles/1111/GLA38.10%20GLA%20Consultation%20Proposals.pdf>

This will assist those labour users who may need to check the status of their supplier in that short term period.

- 3.2 The Board agreed to the recommendations set out in the paper².
- 3.3 At that point the GLA had reported that “This change will be subject to IT re-development of the licensing system and will be coupled other IT enhancements. An implementation date is therefore to be determined.”
- 3.4 The GLA has now identified that the ability to enhance the public register is available within existing functionality, and can be implemented without awaiting other enhancements that are required to discharge RTC commitments.

4. Key Points/process

- 4.1 The public register will be enhanced to introduce the following new public register status entries:
- Licensed with ALCs
 - Appeal against refusal
 - Appeal against revocation (WIE)
 - Revoked
- 4.2 Where an initial licence decision is to grant a licence with ALCs it will be shown as “licensed” until appeal rights are extinguished, or any appeal is lost. At that point the status will change to “Licensed with ALCs”. The status “Licensed with ALCs” will also be applied where the GLA has decided that ALCs need to be added to a licence following licence review. Similarly, the change in status will only be applied once a LP’s appeal rights have extinguished, or any appeal has been determined, and the GLA’s position upheld.
- 4.3 The two “appeal” status entries will be applied where the LP appeals; if no appeal is made within the time period allowed the public register entry will be removed as occurs currently. The status “Revoked” will be shown for “revocations with immediate effect”. It will continue to appear on the public register until appeal rights are exhausted, or the appeal is lost. It will then be removed.
- 4.4 The table below identifies what the current licence status shown to the public is, and what it will change to for the entries in paragraph 4.1:

² <http://gla.defra.gov.uk/PageFiles/1111/38th%20Board%20Meeting%20Minutes%20final.pdf>

LAWS Licence status	Current Public Register status shown	Future public register status shown
Licensed	Licensed	Licensed
Licensed with ALCs*	Licensed	Licensed
Licensed with ALCs**	Licensed	Licensed with ALCs
Appeal against refusal	Applied	Appeal against refusal
Appeal against notice of revocation	Licensed	Appeal against revocation (WIE)***
Revoked	Entry removed	Revoked

* For applicants the status will initially show as Licensed. For LPs against whom ALCs have been imposed the status will initially remain licensed

** Applicants whose appeal rights extinguish, or who do not appeal will be shown as having ALCs. Licence holders who lose their appeal, or who do not appeal against ALCs will also be shown as having ALCs.

*** - the difference in text shown is due to character space restrictions in the data entry fields

4.5 The GLA will not change the status until after the LP has submitted their appeal, as required in accordance with the appeals regulations and timescales, and the GLA has submitted its response to the appeal (confirming that it has decided to defend the appeal). Once submitted, the GLA will update the licence status on LAWS which will trigger the change to the “appeal” status on the public register status. An approximate period of 40 working days will elapse between issue of the licence decision and change in the public register entry.

4.6 The GLA website public register landing page³ will be enhanced to explain what each new public register status means:

- “Licensed with Additional Licence conditions (ALCs)” – the GLA has identified non-compliances with the GLA licence standards. The LP is authorised to continue to operate with a licence but is expected to bring itself back into full compliance with the licensing standards. Once this has occurred the public register status will be returned to “licensed”
- “Appeal against refusal” – The LP’s application for a licence has been refused. Although an appeal has been submitted the LP does not hold a licence and may not trade legally within the sector regulated by the GLA”

³ <http://gla.defra.gov.uk/Our-Impact/Who-Has-a-Licence1/>

- “Appeal against revocation without immediate effect (WIE)” – The LP’s licence has been revoked, and the LP has appealed against the GLA’s decision. The LP may continue to trade as if it holds a licence during the period until a decision is made by the appeals tribunal.
- “Revoked” - The revocation is with immediate effect. The labour provider cannot trade. The labour provider has appealed against the revocation with immediate effect, and the Public Register entry will appear as “revoked” until the outcome of the appeal. At that point, if the GLA decision is upheld, the record will be removed from the Public Register, but will appear on the list of revoked licence holders.

New website pages to implement this change, and provide information are attached as Annex 1.

- 4.7 The GLA will write to all existing appellants to notify them of the impending changes.
- 4.8 It will issue a GLA Brief to all LPs one month after the letter to be issued in Para 4.6.
- 4.9 If any LPs are refused or revoked without immediate effect after the letter in Para 4.6 and before the issue of the GLA Brief they will be advised of the change that will occur to their public register status entry in the licence decision letter.
- 4.10 The change to the public register will be implemented one month from the date of the GLA Brief in Para 4.7.
- 4.11 A period of two months will elapse before an affected appellant’s public register status changes.
- 4.12 The GLA will not proactively issue press releases on LPs affected by the change to the public register unless the circumstances of the refusal or revocation warrant that approach in accordance with the current external communications policy, and any amendments to it that may be issued from time to time.
- 4.13 The change in public register status will not generate any further additional active check notifications. The last active check notification to parties with a registered interest in a specific record will be the notification currently issued when an inspection report is submitted to the licensing section for a decision on whether a licence should be granted, or an existing licence is affected by inspection findings (i.e. approximately 40 working days before the public register status changes).
- 4.14 Future LAWS enhancements may facilitate further changes to available functionality which may enable the introduction of active check notifications when the public register status changes. Such enhancements of the public register may also enable the addition of information buttons (as currently used to explain other entries such as “Principal Authority”), which will enable viewers to access similar information as set out above in Para 4.6

5. Financial Implications and Budget Provision

- 5.1 None – the changes to the licensing system can be implemented at nil cost.

6. Organisational Risks

6.1 There remains a risk that an appellant, whose record is marked "appeal against revocation (WIE)" may argue that the change adversely impacts its contract and commercial viability, resulting in the threat of legal action if it is successful in the defence of its appeal. The success rate of the GLA at appeal, and the approach outlined above reduce risk exposure of the GLA.

6.2 Since the commencement of the licensing process the analysis of appeal outcomes is:

Appellant win	7
GLA win	98
Appellant withdrawn	108
GLA withdrawn	24

6.3 The 108 figure reflects cases where, generally, appellants make a new application, resolve identified non-compliances, and are allowed to hold a new licence, and then withdraw their appeal.

6.4 The volumes of appeals withdrawn by the GLA represents 10% of all appeals. A review of the cases withdrawn by the GLA identifies that 19 occurred from 2009. 12 of those cases (63%) were withdrawn from appeal by the GLA **before** a response was required by the Appeals Tribunal. Therefore in accordance with paragraph 4.5 (above) on the new process those cases would not have their status changed on the public register and would have had their licence re-instated.

6.5 This leaves 7 cases. Analysis of those 7 cases identified that the GLA withdrew in three cases where the appellants or their legal representatives did not provide evidence as early as they could have. Had they done so it would have enabled the GLA to review the case and take the same approach as the aforementioned 12 cases. The GLA considers that the change in process will result in the removal of such cases as an impending change in public register status will provide the impetus to provide existing evidence to the GLA before the deadline for it to respond to the Appeals Tribunals.

6.6 The 4 remaining cases relate to appeals on which decisions were made before 2010. In each case the withdrawal was after the GLA had submitted its case to the Appeals Tribunal. The degree of risk would arise from such cases.. A review of the reasons for withdrawal in those cases identified weaknesses in the decision, or a unique circumstance, that has not featured in a revocation decision since. Furthermore, those 4 cases fell in the period before the internal appeal review process, and the resources allocated to appeals was enhanced. That process and resource improvement provided an evident improvement in the efficiency of decision making and appeals, demonstrated by the GLA's continuing high appeal success rate, and the earlier withdrawal in the larger proportion of the 19 cases reviewed.

- 6.7 Therefore, the GLA considers that the degree of risk identified in paragraph 6.6 will be unlikely to occur due to process enhancements. Furthermore, the risk demonstrated in 3 cases, of late submission of evidence will be minimised by the application of the new process, and guidance to licence holders and appellants.
- 6.8 The continuing success rate at appeals, and GLA appeals administration, indicates that there is a manageable degree of risk that does not require further amendment to the licensing decision process.
- 6.9 Since the implementation of the 2012 licensing standards the analysis of appeal outcomes is:

Appellant win	0
GLA win	5
Appellant withdrawn	11
GLA withdrawn	1

- 6.10 This provides further confidence in the current process such that only those cases where the GLA submits a response to the appeal will have their status changed on the public register.
- 6.11 Aside from the change to the public register entry the GLA will not proactively consider media releases on such cases except in those situations where the circumstances warrant it in line with the stated position in the external communications policy.

7. Policy Implications and Links to Strategic Priorities

- 7.1 The changes proposed follow the GLA's consultation exercise on change following the red tape challenge review.

8. Details of Consultation/EQIA

- 8.1 The requirement for consultation and EQIA is discharged as this paper details implementation changes stemming from issues on which consultation and Board discussion on proposals has occurred.

9. Background Papers and Relevant Published Documents

9.1 The following documents are relevant to the subject of this paper:

- ["GLA application and inspection consultation"](#)
- [Paper GLA 37/8.2 GLA Consultation on changes to application and licensing procedures](#)
- [Paper GLA 37/8.2 Annex A Application Inspection Consultation - Post consultation conclusions and proposals](#)
- [Paper GLA 37/8.2 Annex B Application Inspection Consultation - Summary of responses](#)
- [Paper GLA 38/10 GLA consultation proposals](#)

Report Author: Darryl Dixon

Senior Responsible Officer: Paul Broadbent

Annex 1 Proposed amended/new website pages

(a) Amended webpage (new text appears in red below)

Who has a licence
<p>The GLA public register lists the labour providers who are licensed or who have applied for a licence.</p> <p>It is important to check that your labour provider has a current licence as it is an offence to use an unlicensed labour provider.</p> <p>How to check the public register</p> <p>You can call our helpline on 0845 602 5020 to confirm that a labour provider is licensed or check online following these simple steps:</p> <ul style="list-style-type: none">• Click here to access the register• Click here to see what each Public Register status means• Search for a labour provider by location, name, or their unique reference number (URN)• To view further information such as contact details, authorised sectors and date of licence click on the magnifying glass icon• Print the page to keep a copy for your records <p>If you cannot find details for your labour provider, please contact us for confirmation that they do not have a licence.</p>

(b) New webpage (the hyperlink at “here” above, in red, will lead to this new page)

Public Register status

The following table explains what a public register status means, and how a labour provider’s licence may be affected

Status	Explanation
Licensed	The labour provider has a full, current, licence; there are no known areas of non-compliance.
Licensed with Additional Licence Conditions (ALCs)	The GLA has identified non-compliances with the GLA licence standards. The LP is authorised to continue to operate with a licence but is expected to bring itself back into full compliance with the licensing standards. Once this has occurred the public register status will be returned to “licensed”
“Appeal against refusal”	The LP’s application for a licence has been refused. Although an appeal has been submitted the LP does not hold a licence and may not trade legally within the sector regulated by the GLA.
“Appeal against	The LP’s licence has been revoked, and the LP has appealed against

<p>revocation without immediate effect (WIE)</p>	<p>the GLA's decision. The LP may continue to trade as if it holds a licence during the period until a decision is made by the appeals tribunal.</p>
<p>Revoked</p>	<p>The revocation is with immediate effect. The labour provider cannot trade. The labour provider has appealed against the revocation with immediate effect, and the Public Register entry will appear as "revoked" until the outcome of the appeal. At that point, if the GLA decision is upheld, the record will be removed from the Public Register, but will appear on the list of revoked licence holders, which can be found here</p>