



Gangmasters  
Licensing Authority

# **GLA41/12 Update on Discretionary Approach to Application Inspections**

**02 April 2014**

# Board Paper Reference – GLA41/12 – Update on Discretionary Approach to Application Inspections

## 1. Purpose of the Report

- 1.1. This paper updates the Board on the GLA's discretionary approach to application inspections, in particular:
  - Reviewing the applications received since the new process was introduced,
  - Explaining the reasons for whether a physical inspection was conducted or not, and
  - Providing an analysis of the new approach.

## 2. Recommendation

- 2.1. The Board is invited to note this paper.

## 3. Background

- 3.1. Following the Red Tape Challenge and approval by the Board, the GLA introduced a revised approach to processing inspections from 1 October 2013. The GLA now makes an assessment whether a physical inspection should be conducted as part of the application process. The authority's approach is published in GLA Brief 28 (see annex A).

## 4. Applications Since 1 October

- 4.1. As of 6 March 2014, 41 applications have been processed where a decision has been taken as to whether a physical inspection should be conducted or not.
- 4.2. GLA Brief 28 explains that there are mandatory criteria for a physical inspection to always be conducted along with a list of criteria where the authority has the discretion of conducting a visit. The table at annex B explains the reasons who the decisions related to of the 41 applications.

## 5. Analysis

- 5.1. Of the 41 applications, 37 applications were put forward for a physical inspection. The remaining four have been granted without a physical inspection. Of the four granted without a physical inspection, one was a full licence with three granted with Additional Licence Conditions ("ALCs").
- 5.2. Of the 41 applications, 21 have now reached a final licence decision (i.e. whether a licence should be granted or not).

- 5.3. Of the 21 applications where a licence decision has been made, 17 are applications where a physical inspection was conducted. Of those 17 cases, 13 have been granted a full licence, one with an ALC and three have been refused.
- 5.4. On review, the GLA could have refused one application without the need for a physical inspection based on the information held (reference 11 in the table at annex B). However, the inspection did gather additional evidence for refusing the application.
- 5.5. Of the 37 applications put forward for a physical inspection, 20 are still subject to an ongoing inspection or waiting for a licence decision. Where the inspection is ongoing, either the visit has not yet occurred, enquiries are ongoing or the report is being completed.
- 5.6. Of the 37 applications put forward for a physical inspection, all would have been tasked for a visit under the criteria initially presented to the Board in paper GLA 37/8.2 "GLA Application and Inspection Consultation".
- 5.7. Of the four granted without a physical inspection, none have notified the GLA that they started trading in the GLA sectors. No adverse intelligence has been received against any of those licence holders. Three of those four applications are well established companies already trading in other sectors. The fourth company was relatively recent set up. However, from the information received from other Government departments, the GLA was satisfied that a licence could be granted without conducting a physical inspection.
- 5.8. 13 out of 17 cases with a licence decision following a physical inspection were granted a full licence. A review of the grounds for submitting the application for a visit confirms that the reasons were justifiable and proportionate based against the criteria published in GLA Brief 28.

## **6. Conclusion**

- 6.1. The GLA will continue to monitor the operation of the discretionary approach to physical inspections with a review of the criteria for deciding when to visit to be reviewed once more applications have been received and final licence decisions have been made (i.e. when a greater evidence base is available).

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## Annex B

Application	Physical Inspection Required?	Reason	Final Licence Decision
1.	Yes	Mandatory inspection.  Adverse OGD information received regarding tax debts.	Licensed  Personal debt of Principal Authority was a small amount. Licensing Team decided it would have been disproportionate to refuse the application.
2.	Yes	Discretionary inspection.  Intelligence that a non-compliant expenses scheme was being operated. Also a concern about previous compliance record.	Licensed with ALC for Standard 6.3  There was evidence that PPE would not be provided free of charge. Licence conditional on free PPE being provided.  No evidence that the expenses scheme was non-compliant.
3.	Yes	Mandatory inspection.  Adverse OGD information received regarding possible NMW issues.	Licensed  No evidence of non-compliance identified.
4.	Yes	Discretionary inspection.  Initially wrote to the business requesting clarification of how business operated an expenses scheme. Decided to proceed to	Refused  PA lacked competency (including using a non-compliant expenses scheme with a

Application	Physical Inspection Required?	Reason	Final Licence Decision
		physical inspection on review of information received.	connected company). Still within period of time to appeal.
5.	Yes	Discretionary inspection.  Non-compliant documentation submitted in support of application raised concerns about the PA's competence.	Licensed.  Documentation compliant for inspection. PA demonstrated competency.
6.	Yes	Mandatory inspection.  Shellfish gathering application. Submitted for physical inspection due to high risk nature of work.	Licensed.  No non-compliances identified.
7.	Yes	Mandatory inspection.  Intelligence of alleged connection to trafficking.	Licensed.  No non-compliances identified.
8.	No	Discretionary decision not to visit.  Minor issue with worker contract but no significant issues identified to justify a physical inspection.	Licensed with ALC for Standard 7.3.  ALC to correct one clause in contract. ALC now cleared.
9.	Yes	Mandatory inspection.  Intelligence business may be a 'front' for a third party and undeclared unspent conviction.	Refused.  Failed to declare conviction without reasonable explanation and lacked

Application	Physical Inspection Required?	Reason	Final Licence Decision
			competency. No appeal submitted.
10.	No	Discretionary decision not to visit.  No issues identified to justify a physical inspection.	Licensed
11.	Yes	Mandatory inspection.  PA has criminal conviction for assault (related to domestic violence) and drugs offences. Also concern about level of competence.	Refused  Criminal convictions and lacked competency.  No appeal submitted.
12.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
13.	Yes	Mandatory inspection.  Applicant is connected to a business previously revoked.	Inspection report currently being considered by the GLA Licensing Team.
14.	Yes	Mandatory inspection.  Adverse OGD information received regarding tax debts related to connected company.	Licensed.  Reasonable explanation provided for tax debts of previous company and current HMRC payments for new company are

Application	Physical Inspection Required?	Reason	Final Licence Decision
			up to date.
15.	No	Discretionary decision not to visit.  Minor issue with worker contract but no significant issues identified to justify a physical inspection.	Licensed with ALC for Standard 7.3.  ALC to correct contract. Evidence submitted to clear ALC being reviewed by the GLA Licensing Team.
16.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
17.	Yes	Mandatory inspection.  Physical inspection to assess links to unlicensed trading.	Inspection report currently being considered by the GLA Licensing Team.
18.	Yes	Mandatory inspection.  Linked to business previously revoked and intelligence connecting applicant to exploitative accommodation providers.	Inspection ongoing.
19.	Yes	Mandatory inspection.  Individuals to businesses subject to GLA compliance and enforcement action.	Licensed.  No non-compliances identified.
20.	Yes	Mandatory inspection.	Inspection ongoing.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Suspected unlicensed trading for a considerable period of time.	
21.	Yes	Mandatory inspection.  Adverse OGD intelligence indicating business connected to other failed businesses.	Inspection report currently being considered by the GLA Licensing Team.
22.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Inspection ongoing.
23.	Yes	Mandatory inspection.  Intelligence indicating possible immigration offences.	Inspection ongoing.
24.	Yes	Mandatory inspection.  Allegations of historic multiple non-compliance with Licensing Standards.	Licensed.  No non-compliances identified.
25.	Yes	Mandatory inspection.  Adverse OGD information received regarding tax debts.	Inspection ongoing.
26.	Yes	Mandatory inspection.	Inspection ongoing.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		Intelligence indicates possible links with non-compliant businesses.	
27.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
28.	Yes	Mandatory inspection.  PA was previously determined not fit and proper (more than two years ago).	Inspection ongoing.
29.	Yes	Discretionary inspection.  Previously held a licence which had ALCs never cleared before it expired. Contract non-compliant	Inspection ongoing.
30.	Yes	Mandatory inspection.  Insufficient information held on company or individuals.	Licensed.  No non-compliances identified.
31.	No	Discretionary decision not to visit.  Minor issue with worker contract but no significant issues identified to justify a physical inspection.	Licensed with ALC for Standard 7.3.  ALC to correct contract.
32.	Yes	Mandatory inspection.	Inspection ongoing.

Application	Physical Inspection Required?	Reason	Final Licence Decision
		PA linked to revoked business.	
33.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Inspection ongoing.
34.	Yes	Mandatory inspection. Adverse OGD information received regarding possible NMW issues.	Inspection ongoing.
35.	Yes	Mandatory inspection. Intelligence alleging job-finding services conditional on using additional services.	Licensed. Business stated services would not be provided.
36.	Yes	Mandatory inspection. Adverse OGD information received regarding tax debts.	Inspection ongoing.
37.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Inspection ongoing.
38.	Yes	Mandatory inspection. Insufficient information held on company or individuals.	Inspection ongoing.

Application	Physical Inspection Required?	Reason	Final Licence Decision
39.	Yes	Mandatory inspection. Adverse OGD information received regarding tax debts.	Inspection ongoing.
40.	Yes	Mandatory inspection. Adverse OGD information received regarding tax debts.	Inspection ongoing.
41.	Yes	Mandatory inspection. Connected to business with known non-compliances.	Inspection ongoing.