

# GLA30/10.2 Forestry Pilot Update

07 July 2011

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## **BOARD PAPER REFERENCE – GLA30/10.2 – Forestry pilot update**

### Issue

1. Update on the Forestry pilot, and next steps

### Actions

2. The GLA will define, and evolve, a view of "earned recognition".
3. The GLA will issue the Forestry Brief and the Forestry Pilot Brief.

### Background

4. The first Forestry Pilot meeting was held on 09/06/11. The minutes are attached as Appendix 1.
5. The revised Forestry Brief (GLA Brief 14) is under review by Defra, following additional comments by the Forestry Commission.
6. Apart from the suggestion that specific training qualifications should support earned recognition, no other factors have been identified.
7. A draft GLA Brief (15) announcing the operation of the pilot, and the procedures that will be applied, is attached at Appendix 2.
8. A press release will be issued when GLA Brief 15 has been released.
9. The next meeting of the pilot will be organised following the release of the aforementioned documents, and supporting internal procedures, to commence evaluation of the approach.

### Other issues

10. During discussions on the development of the pilot the GLA has also been considering other activities that currently require a licence. These include, but are not limited to:
  - Land Agents
  - Use of volunteers
  - Activity on wildlife and related trusts
  - Activities funded through other Environmental, Natural England, or DWP welfare to work programmes
11. The ongoing evaluation of the pilot will consider how intended approaches can be extended to the aforementioned groups, or whether sufficient evidence is developed for Defra to consider in the next iteration of the exclusions regulations.

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## **Appendix 1                      Minutes of the first Forestry pilot**

### **Minutes of the 1<sup>st</sup> meeting of the GLA Forestry Pilot Steering Group, held on 9<sup>th</sup> May at Defra, London**

#### **In attendance:**

Ian Livsey – GLA (Chair)  
Darryl Dixon – GLA  
Kevin Ruston – Defra  
Ian Leggat – Defra  
James Brown - Confor  
Wayne Scurrah - Scurrah Associates

#### **Apologies:**

Stuart Goodall - Confor  
Cath Speight - Unite

#### **Welcome and introductions**

1.        **Ian Livsey** welcomed attendees and explained the purpose of the meeting was to add more detail to the concept of the Forestry Pilot and discuss the approach proposed by the GLA. He explained the Pilot was in response to concerns within the forestry sector about how the current licensing scheme impacted on the industry. The proposal was to move to a lighter touch regime in a controlled way, following better regulation guidance and minimising burdens on businesses. He added that the GLA wanted to aid compliance with the regulations, rather than push for criminal convictions and therefore incur further costs.
2.        **James Brown** said Confor had sought legal opinion on the proposed approach to ensure its validity. Generally, the consensus was that common sense guidance was needed and that a lighter touch approach would be welcomed because it would result in lower expenditure for businesses. He added that it would be for the GLA to inform Confor if things were going wrong.
3.        **Ian Livsey** pointed out that the Forestry Regulation Task Force Review could impact on the Forestry Pilot but at present there was no timeframe and therefore the Pilot should press on. He added that the GLA Board had approved the Pilot, which would see Application Inspection (AI) costs dropped in favour of the concept of "earned recognition". The GLA Board had differing views on whether an AI should still be required but there was a common view, supported by Defra, that rogues should be kept out of the scheme.

#### **Terms of reference**

4.        **Darryl Dixon** drew the meeting's attention to point 3 of the ToR which stated the pilot would run for one year, with the possibility of extensions. He

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explained that future Steering group meetings would analyse and review the effectiveness of the Pilot processes and put recommendations to the GLA Board on possible changes, including whether the Pilot should be rolled out to other areas covered by the GLA. **Kevin Ruston** suggested that if the ToR were to be made public, they should include an explanatory opening paragraph on the scope of the Pilot. **Darryl Dixon** agreed, with **Ian Livsey** adding that the GLA would put out a press release referring to the revised industry guidance note that had just been cleared with Defra. . He promised to circulate a draft to Steering Group members for comment. **ACTION: GLA**

### **Guidance Note on Forestry**

5. **Darryl Dixon** expected the guidance note to strike a chord with labour providers who had not previously been licensed and may have been operating illegally. He explained that applications from such providers would be treated as voluntary disclosure and those providers would avoid conviction. The guidance note would have an immediate operational date when published. He added that the note should be clear about the rules governing fencing.

6. **Kevin Ruston** confirmed that Defra was happy with the guidance note and questioned whether, in publicising it, GLA would make clear the proposed approach on voluntary disclosure, i.e. applicants could apply without fear of prosecution, provided there were no aggravating factors. **Darryl Dixon** agreed and would ensure the press released covered that point. **ACTION: GLA**

### **Earned recognition**

7. **Darryl Dixon** explained the GLA had previously discussed with Confor the option of a possible "trade off" with applicants that would require additional information in return for reduced inspection and fee requirements. **James Brown** thought that companies should be able to provide financial records if required and those who couldn't would attract suspicion. **Darryl Dixon** confirmed the GLA did carry out financial record checks with HMRC.

8. **James Brown** expressed some concern about the recognition of ISO and FSC accreditation. **Darryl Dixon** asked **Wayne Scurrah** to provide him with the specifics on ISO certification. **ACTION: WAYNE SCURRAH.**

9. **Ian Livsey** questioned if revealing financial account details would cause problems for smaller businesses. **James Brown** said that even Sole traders were required to provide such details so it shouldn't be a burden. **Kevin Ruston** suggested that a comprehensive check list of factors which could be taken into account in determining earned recognition should be drawn up for the GLA: this would support the audit trail and aid public transparency even if a number of factors were discounted as being irrelevant. **Daryl Dixon** asked that Confor provide GLA with a full list of factors . **ACTION: CONFOR.**

### **Application process and fees/discounts**

10. **Darryl Dixon** explained that forestry applicants would need to apply by telephone in order to benefit from the reduced fee approach. **James Brown** and **Wayne Scurrah** agreed the telephone only approach was right. **Kevin Ruston**

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pointed out that a telephone only application system could impact on disadvantaged groups, such as those with disabilities. **Darryl Dixon** said the OGD check process to identify risk could be done within 10 days, allowing quick decisions but this would be delayed for applicants paying by cheque. He added that even if an inspection was likely to be necessary, no fee would be required and it would not delay the final decision. The meeting was content with the proposed application process and fees, although **Kevin Ruston** said he would consult Defra Lawyers to ensure this was in accordance with Ian Livsey's duties as Accounting Officer. **ACTION: Defra.**

### **Management of Forestry applications**

11. **Darryl Dixon** summarised how forestry applications would be managed under the Pilot. Currently, forestry applications passed through the normal licensing-intelligence processes and all application inspections were allocated through the intelligence T&C process. He explained that a separate review of such cases, prior to T&C, would be required to ensure that allocation included a clear direction as to the inspection requirements, if any inspection was to be required. The process would also flag cases for random inspection to test the low risk attributed to cases within the scope of the Pilot. In such cases the results of those inspections would be fed into the Pilot analysis.

### **Approach to applications following a failure to renew**

12. **Darryl Dixon** said the GLA had already started to examine other possible processes for a lighter touch approach and the Forestry Pilot would go a step further. At present, labour providers had to pay £2,000 for an inspection to renew their licence at expiry. In the Pilot there would be more flexibility and consideration was needed on precisely how to handle renewals. Clearly, more questions would be raised the longer a licence was left to lapse.

13. **James Brown** commented that legitimate reasons might exist for a gap before renewal, such as where there was a lack of business for the labour provider. **Darryl Dixon** suggested GLA could issue an equivalent of a "SORN" notice for those not currently trading which would avoid the need for a full application process and the associated costs. **Ian Livsey** thought 12 months would be an appropriate length for the licences. **Darryl Dixon** made the point that an application for renewal could be refused if it transpired that the applicant had been trading without a licence.

### **Change of Principal Authority**

14. **Darryl Dixon** confirmed that in the case of forestry, an application inspection would not be required before a request for change of Principal Authority.

### **Change of Legal entity**

15. **Darryl Dixon** explained that for the purposes of the Pilot, a lighter touch approach would apply to changes of legal entity and as such no application inspection would be required.

### **Summary**

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16. **Ian Livsey** said the aim was to have in place in 12 months time a clear approach for forestry that would avoid application inspections and work on an intelligence led, earned recognition basis. GLA would keep a low profile but would enforce in cases of non-compliance. The meeting confirmed it was content with the approach being proposed, subject to comments above. **Wayne Scurrah's** advice was to hold a workshop, possibly combined with a Forestry Commission event, to communicate the key messages of the new scheme to the industry. It was suggested that Confor could give some thought to appropriate events and publicity opportunities. **ACTION: CONFOR**

17. **Kevin Ruston** thought the commitment to deliver and timing of any event/s might be considered as an element of the Terms of Reference.

#### **Date of next meeting**

18. It was agreed to fix a date at a later stage.

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Appendix 2

Draft GLA Brief 15



## GLA Brief

Issue (15) – ( ) 2011:  
(Title )

**This Brief provides information on the GLA's Forestry pilot. It sets out the approach the GLA will test in relation to applications and changes of circumstances for labour providers operating solely in the Forestry Industry. For labour providers operating in the Forestry and other areas regulated by the GLA the normal processes will continue to apply. The results of the pilot may inform longer term change in the regulatory approach adopted in low risk areas.**

The GLA's Forestry Pilot is designed to test out a "lighter touch" approach to regulation in the Forestry sector. It will apply a number of approaches to assess whether a different approach effectively regulates the sector without additional burdens or whether it allows increased risk to develop.

The new approaches will formally operate from 18 July 2011.

### Approaches to be tested

#### Applications

It is expected that the GLA Brief on Forestry (GLA Brief 14) may generate additional applications for licences. The Pilot approaches will be applied to those cases. Any applications arising from the clarification on whether a licence is required will be treated as voluntary disclosure. Therefore criminal investigation will not be appropriate unless exploitation of workers and serious non-compliance with other GLA standards (e.g. HMRC) is identified.

New applications will not require an application inspection provided that they meet the additional application criteria that demonstrate "earned recognition". "Earned recognition" is the term that is applied to other factors that the GLA consider represent additional evidence of general compliance, and an increased likelihood of reduced risk of non-compliance with the GLA's licensing standards.

Details of the GLA's "earned recognition" checklist can be found in **Annex 1** to this GLA Brief.

As any applicant that meets the criteria will not require an application inspection it will not be required to pay the application inspection fees. It will only be required to pay the licence application fee appropriate to its turnover in the regulated sector.

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The current fee levels are set out in **Annex 2**.

If the GLA's normal check procedure with other Government Departments identifies information suggestive of a higher risk of non-compliance an inspection may still be required before a licence decision can be made. In such circumstances, for the lifetime of the pilot, the application inspection fee will **not** be retrospectively required.

Applications that are processed under this approach may nonetheless receive a random inspection after being licensed. The purpose of such inspections will be to test whether the labour provider represents a low risk to confirm the approach adopted as being appropriate.

### **Failure to renew on time**

Any forestry labour provider who fails to renew on time will not be required to undergo and pay for an application fee. The only fee on re-application during the period of the licence would be the licence fee of £400.00.

If a labour provider requests renewal after a period of time has elapsed the licence will be considered, and if there are no factors that warrant refusal, will issue a renewal backdated to the day after the preceding licence expired.

If the labour provider trades during the period after expiry and before renewal without a licence the GLA reserves the right to consider prosecution. This may be appropriate where there is identified non-compliance with the GLA licensing standards.

If a labour provider does not renew, and does not wish to because it will not be trading for a period of time it will be allowed to request a certificate of non-trading status. This will allow it to request renewal at a later date, but for such renewal, if granted, to apply from a future date.

### **Change of Principal Authority**

GLA Brief 13 "Maintaining your licence" deals with a change of Principal Authority. During the forestry pilot an inspection will not normally be required before the change of principal authority is implemented by the GLA. The GLA will run its standard checks with other Government Departments. If those checks produce adverse information an inspection may then be required. That may lead to a review of the licence, a decision that the new Principal Authority is not fit and proper to hold the licence, and lead to licence revocation.

### **Change in legal status**

GLA Brief 13 "Maintaining your licence" deals with a change in legal status. Where a forestry labour provider changes its status, for example from sole trader to Ltd company a new application must be made. In accordance with the GLA's stated



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position transfers are not allowed. Labour providers that adopt the “pre-pack” process are still required to apply for a new licence. During the pilot the GLA will introduce a “lighter touch” for any change of legal status, including Ltd company to Ltd company.

The labour provider **must** notify the GLA in advance if it intends to change its legal status. It should also identify whether it will be applying a different operational model to the predecessor company, and whether there are any debts to HMRC. The GLA will then decide whether an inspection is required. Normally, during the pilot, this will not be required.

Providing awareness of the change of legal status results from proactive notification by the labour provider the GLA will not normally undertake criminal investigation (it may do so where it receives information of mistreatment of workers). The GLA will also advise formally whether companies in such circumstances may trade pending the decision on the new application. The GLA will advise that undeclared non-compliance with HMRC (e.g. a debt on which there is no time to pay agreement) may result in refusal or revocation of a licence for the new company. The decision on whether refusal or revocation is appropriate is dependent on whether information from, for example, HMRC is received before or after the GLA licence decision.

If you have any queries please contact us on **0845 602 50 20** or [enquiries@gla.gsi.gov.uk](mailto:enquiries@gla.gsi.gov.uk)

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## **Annex 1      “Earned recognition” checklist**

The following information should be provided by new applicants from the forestry industry to assist the GLA in determining whether the “lighter touch” regulatory approach can be applied. Evidence of the situation below will be considered as “earned recognition”.

Accredited training, leading to qualification at level 2 (or above), for workers to correctly carry out their duties competently and safely having qualified in one or more of the following certificates of competence (CoC):

City and Guilds:

Certificates of competence in safe manual handling operators

Award in all terrain vehicle handling (QCF)

CoC in forest machine operations

CoC in stump grinding operations

Award for an advanced ground based operator (felling) (QCF)

Award for sever multiple windblown trees (QCF)

Award to fell and process trees over 380mm diameter (QCF)

Award to sever individual uprooted trees (QCF)

Award for ground based chainsaw operator (QCF)

Award for an advanced ground based operator (felling and individual uprooting trees) (QCF)

Award for an advanced ground based operator (felling, individual uprooting trees and multiple windblown trees) (QCF)

Award in chainsaw and related operations (QCF)

Award for specialist felling (QCF)

Award for an aboricultural ground worker (QCF)

Certificate for an advanced aborist chainsaw operator (sectional felling)

Certificate for an advanced arborist chainsaw operator (pruning operations)

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Award to operate a chainsaw from a rope and harness (QCF)

Award to undertake sectional felling (QCF)

Award for aborist chainsaw operator (QCF)

Certificate for an advanced aborist chainsaw operator (pruning operations and sectional felling) (QCF)

Diploma in chainsaw and related operations (QCF)

Award to climb trees and perform aerial rescue (QCF)

CoC in brushcutting operations

CoC in manually fed wood chippers

Award in the safe use of pesticides

NB: For Forestry and the use of knapsack sprayers workers should individually hold qualification in modules PA1 and PA6

CoC in utility arboriculture

Other equivalent qualifications from recognised awarding bodies (NB: once agreed by the GLA they will be added to the GLA's website information in relation to the Forestry Pilot)

Where the GLA undertakes an inspection of a labour provider that has been subject to the "lighter touch" approach evidence of worker qualification as above through the individual worker's training identity card, which lists all qualifications held, may be sought.

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## **Annex 2 Fees payable for new applications during the Forestry Pilot**

Annual Turnover	Fee Band	Application or renewal fee
£10 million or more	A	£2,600
From £5 million to less than £10 million	B	£2,000
From £1 million to less than £5 million	C	£1,200
Less than £1 million	D	£400