



GLA26/8.3

Implementation of Key Reports' Recommendations

Date 21 April 2010

BOARD PAPER REFERENCE – GLA26/8.3 – Implementation of Key Reports’ Recommendations

Issue

1. To provide a summary of the GLA position on key reports, which comment on the activities and approach of the GLA.
2. This summary incorporates recommendations from:
 - Hampton Inspection report
 - Liverpool & Sheffield report
 - WISE: Forced Labour in the UK and the GLA
 - Equality and Human Rights Commission Meat Enquiry
3. The latter two reports also make a number of wider recommendations to Government. Where appropriate, where they are considered to touch on the GLA’s role, they are included without comment.

Recommendations

4. The recommendations are set out in the following annexes.
5. The Hampton and Liverpool & Sheffield recommendations form part of an existing work programme, some of which is already complete, and are therefore presented as a combined table.
6. The WISE and ECHR recommendations, as new issues, are shown separately, but will be incorporated into the existing work programme, so that similar issues are grouped together.

Combined Hampton(H) and Liverpool/Sheffield (L/S) recommendations

	Issue	Hampton(H)/Liverpool-Sheffield (L/S) recommendation	Proposed action
1.	Evolution of the Board	<p>H1a: Need to show the strategic view of where we will be in 3 years time</p> <p>H4a: Do Board members cascade and consult those they represent?</p> <p>H4b: Consider development/clarification of Board Terms of reference</p> <p>L/S1: The labour user, labour provider and worker representation groups should develop more strategically, for example convening around a particular issue rather than just meeting on a regular basis out of habit. The GLA should invite people to propose issues to be discussed and select and steer the agenda accordingly. This way something significant is being offered in terms of communicating with the GLA, but it is up to those who would like to be consulted to come forward with agendas.</p> <p>L/S2: The effective development and use of representation groups should allow the GLA to reduce the size of its Board.</p>	<ul style="list-style-type: none"> • Work ongoing re implementing liaison group structure for LP/LU/worker groups, inc Board paper (22/7.1), and remit (how GLA will use the groups), which will inform future developments • Review of the Board size/structure is a matter for Defra consideration – no action at this point • Review Board ToR and expectations in terms of reference is a matter for Defra consideration – no action at this point • Seek responses from Board members on where they see the GLA Board, and its use, in 3 years time • Reconstitute committees as formal sub-committees of the Board.
2.	Managing Outcomes	<p>H1b: Need to demonstrate how we can maximise worker outcomes in the next 3 years</p>	<ul style="list-style-type: none"> • Corporate/business targets and media campaigns to ensure outcomes rather than

		<p>L/S8: Certain targets / outputs could be reconsidered in terms of their fit with the overall GLA mission. Specifically, there is some evidence that targets set for inspections were too output-orientated.</p> <p>L/S19: The Composite Performance Index should be subject to a review by the GLA's broad and independent evaluation, and indicators added, amended and removed accordingly.</p>	<p>outputs are the focus</p> <ul style="list-style-type: none"> • Operational orders to identify the outcome desired, and its relevance to the GLA Mission • To consider a re-write of the corporate plan to set out the high level vision and aspirations/review of the mission statement • The CPI is incorporated in the GLA Business Plan and will be reviewed as part of the annual planning process. • The CPI will be subject to external evaluation during future independent evaluations.
3.	Robustness of the Application Inspection /licensing decision process	<p>H2: Consider the effective use of resources</p> <p>L/S3: The inspection process should be independently evaluated to assess if the licensing standards work properly, and to ensure that issues are not being missed due to misinterpretation or via an uneven application or via an uneven application of the standards. We would also suggest that inspections are used to collect worker intelligence (possibly using a version of the survey within this report).</p> <p>L/S4: The high number of businesses now listed on the LAWS database as 'revoked', 'ceased trading', or 'refused' (which add up to several hundred) should be subjected to sample survey to answer questions about 'what happens</p>	<ul style="list-style-type: none"> • Revised approach to inspections to maximise resource use, whilst retaining robust checking, appropriate to risk factors, building on existing processes implemented • Completion of inspector training on the new standards • Improved QA process implemented to ensure line managers allocate, direct method of approach, review inspection findings • The questions asked during worker interviews do cover most areas of the survey

		<p>next' (phoenixing, unlicensed activity, displacement).</p> <p>L/S5: The GLA should continue to explore how new labour providers (businesses and individuals) can be better inspected for compliance given their limited track-record in the GLA sectors (e.g. greater cooperation with BIS, HMRC, REC).</p> <p>L/S9: The GLA should try to gather more information (i.e. on LAWS) on the extent to which operators that it licences work across sectors (something indicated in the labour provider survey).</p>	<p>used in the research. The survey questions not covered will be reviewed to see if they are worth adding to GLA own worker interviews.</p> <ul style="list-style-type: none"> • GLA will undertake further analysis of companies that have left the sector ("what happens next") • The inspection process has been reviewed and new sources of information will continue to be explored, including Companies House type information. • The GLA has amended the licence application form to capture this information. Licence holders will also be asked for this information at renewal.
4.	New Sources of Intelligence/ Analysis	<p>H3: Consider knowledge that may be held/tapped within the Meat Hygiene Service; Animal Health; Plant Health Inspectorate; LA: Environmental Health</p> <p>L/S6: The feasibility and costs of gaining more information on company accounts should be examined.</p> <p>L/S7: The collection of intelligence data could be better managed so as to allow more detailed analysis (this is the main source of information available to gauge the scale and scope of the GLA's task).</p>	<ul style="list-style-type: none"> • Greater awareness and access to "Defra family information to be undertaken • Development of exchange process, and Local Authority awareness of the GLA intelligence requirement to be produced with LACoRs, focusing on Environmental Health, Trading Standards, and HMOs • Ongoing work to consider new sources of information on companies through existing Government and private portals

		<p>L/S10: Data on, and estimates of, unlicensed activity could be improved by more active HMRC cooperation.</p> <p>L/S18: The GLA should develop GIS –based capacity to follow up concentration of illegality and of GLA activity.</p>	<ul style="list-style-type: none"> • GLA to be engaged in broader scale and scope of labour exploitation surveys (non-Government). • Active liaison with HMRC on specific avoidance schemes to assist tackling unlicensed activity • GIS systems to be introduced into GLA
5.	Consultative approach	<p>H4c: Consider outline indications of potential proposals to obtain early views</p> <p>H4d: Consider greater explanation where suggestions are not accepted</p> <p>(x-ref to Issue 1 above)</p>	<ul style="list-style-type: none"> • “Outline indications” approach already implemented on enforcement proposals with enforcement partners • Examples of the outline approach with LP group • Need to establish a process whereby we provide early indication of areas we intend to look at, and to seek early views, explaining that no conclusions have been made (suggest we add a new box on future licensing news to cover this)
6.	Revocation, appeals, and regulatory approach	<p>H5: There is a need for greater clarity on why/when revocation will be considered</p> <p>H6: There is a need for greater clarity on who handles appeals internally, and how that demonstrates objectivity</p> <p>L/S14: The GLA should make more of its excellent (97%) success rate at appeal in order to try and reduce and deter those Gangmasters who might wish to appeal against a</p>	<ul style="list-style-type: none"> • Create a new area, “signposted on the LHS (after “About Us”) entitled “Regulatory approach”, to cover: circumstances when with/without immediate effect is appropriate; application of “fit & proper”; the two strikes position; our prosecution policy; the revocation/reapplication process; • Include on the regulatory approach page, with results figures

		<p>revocation.</p> <p>L/S15: The GLA currently has one successful conviction but there are 207 prosecution cases now open. The 2009 Annual Review should visit these cases in depth and examine the challenges faced by the GLA in terms of prosecuting illegal operators. This is especially important given the Macrory penalties.</p>	<ul style="list-style-type: none"> • Post Hampton development of proposals on Macrory penalties will include how the use of the sanctions will impact prosecution policy
7.	Awareness & Media Approach	<p>H7: Consider whether the current use of the media is more tactical rather than strategic, and whether a change of style might generate more intelligence.</p> <p>L/S12: The GLA should continue covert operations and high-profile media campaigns to ensure the visible threat of detection remains strong.</p> <p>L/S13: Some awareness raising amongst agency workers would be useful. This is perhaps best done via CAB and Unions and might have only a limited impact given the complex organisational infrastructure in the UK relating to agency worker protection. More generally, a single body protecting vulnerable workers would address this awareness issue, but the GLA is not in a position to lobby for this.</p>	<ul style="list-style-type: none"> • Papers 22/7.2 & 7.3 address the external communications strategy and release of information to the press; 7.2 covers raising worker awareness • The GLA is considering other opportunities for closer working and data exchange • Agency awareness approach to be co-ordinated as part of the GLA's engagement with the BERR vulnerable worker single enforcement helpline
8.	Shellfish	<p>L/S11: The specific issues around shellfish could be at least partly addressed by closer links between the individual and</p>	<ul style="list-style-type: none"> • The GLA believes standardising individual permits across the UK would greatly assist compliance; previous submissions to

		gang-based permit systems.	Defra/SEERAD on regulating orders have addressed this point, and will continue to be the position given.
9.	Overseas Labour Providers	L/S16: The problem of regulating foreign-based Gangmasters will not away and the GLA must have visibility at the EU-level. The case involving the Bulgarian authorities demonstrates the importance of international inter-agency collaboration but this remains a considerable challenge.	<ul style="list-style-type: none"> • The GLA will seek to formalise arrangements with other EU member state counterparts by building on initial contacts. Target countries are based on evidence of abuse of specific nationality groups.
10.	Future Annual Reviews	L/S17: Future Annual Reviews would benefit from a partnership approach to information gathering. Our experience has led us to conclude that an independent and multi-agency research observatory to monitor vulnerable work across the EU would be invaluable.	<ul style="list-style-type: none"> • The GLA agrees better coordination of research would be beneficial, especially in helping devise appropriate policy responses. The Fair Employment Enforcement Board (FEED) could be best placed to develop this idea – the GLA will raise this issue with the FEED.

WISE recommendations

No	Recommendation	Response
1.	The GLA should continue and build upon its proactive approach to tackling exploiters	GLA is actively exploring how it can play its part in tackling cases that meet the new s71 offence
2.	The GLA should re-evaluate its position on securing prosecutions. Given the levels of exploitation in the sector, the two prosecutions to date, each securing only minor penalties, is a wholly inadequate strike rate.	The GLA must focus its efforts on those cases where greatest harm is identified, even where this is not by unlicensed labour providers. An example of penalties that can be achieved is demonstrated by the Sapphire case.
3.	The number of revocations over the past year suggests that some licensed gangmasters are still not getting the message; that upon acquiring their licence, they are allowing standards to slip. The GLA should undertake significant levels of „unannounced visits“ and „random inspections“ of gangmaster operations.	Unannounced inspections occur where intelligence suggests it represents the most effective approach. Random inspections as such do not occur. Additional resources/staff undertaking visits in areas where they are operating may assist.
4.	Too much of the GLA’s enforcement activity remains dependent on intelligence provided by migrant workers themselves or by other concerned individuals/agencies. The Authority should establish an in-house undercover facility and develop it in cooperation with other statutory agencies.	New IT developments are due to be introduced. These will enable easier analysis of the source of intelligence, and intelligence gaps. The analysis of such information will enable the GLA to develop innovative solutions to improve its reach into migrant communities.
5.	The GLA should continue to forge greater links with other enforcement agencies and endeavour to improve inter-agency cooperation.	It is doing, most recently with HMRC.
6.	It should also forge greater links with the trade unions and with community organisations – not only with Citizens Advice Bureaux, but also with other agencies operating specifically in the interests of migrant workers, eg. the Migrants’ Rights Network, Polish Workers’ Federation, Chinese Community Associations and the many organisations working at local level.	This is occurring through the Worker stakeholder liaison committee, which meets regularly, in different parts of the country, to enable different representative groups to also engage with it.
7.	The GLA should proactively seek engagement with local authorities, encouraging them to a) seek to „police“ better migrant worker	Development of a LA protocol/ though which 15 DCLG funded community enforcement officers engage with key LAs will

	accommodation, and b) inform the GLA of any suspicious gangmaster activity in their locality.	enhance the current levels of liaison.
8.	It should facilitate a programme of improved awareness-raising and advice to migrant communities – both in the UK and in key source countries – about the dangers of exploitation in the UK, about rights and responsibilities, and in particular, about procedures with regard to the necessity to register (and remain registered) for legal employment.	We are currently planning such media campaigns. This will be supported by the work of the community enforcement officers and the GLA's other work with overseas labour inspectorates.
9.	The GLA should endeavour to build upon relationships with enforcement authorities in source countries, in order to further regulate the activities of foreign-based gangmasters.	Work with Poland, Bulgaria, Romania, and more recently Latvia and Slovakia already demonstrates that commitment, leading to the EU bid, MOUs, and proposals re study visits (HR)
10.	There is currently precious little incentive for migrant workers to „whistle-blow“ to the GLA. The Authority should publicise widely, and within migrant communities in particular, its intention to work with a range of agencies to ensure that where a gangmaster operation is terminated, the workforce will be found alternative employment, and where necessary, accommodation.	Where workers have not been paid the correct amounts, and particularly where they are due holiday pay there is a clear incentive to contact the GLA. The GLA is considering the extent to which it should develop a victim strategy, whether its remit allows for such an approach, and what financial implications this may present for the GLA.
11.	The GLA should continue its very positive work with suppliers and retailers to raise standards across the sector(s).	Protocol now signed. The GLA is now considering the action necessary to ensure that the commitment to the protocol can be turned into effective, targeted, support.
	Other recommendations (to Government)	
12.	Trade unions should be invited to engage in the inspection process. It makes little sense to have an enforcement framework operating on the basis of barebones inspection teams when there are thousands of local trade union officials, who engage with workers in every locality and in every employment sector, who would be willing and able to assist, and who have a working knowledge of the many and varied forms that exploitation takes. The government should harness their knowledge and expertise, and their sense of civic responsibility.	If we think that involvement of TU officials may assist with an inspection we will consider it, where we obtain agreement from the LP we will do so. We are also developing a Trades Union protocol along the lines of the supermarket protocol.

EHRC recommendations

No	Recommendation	Response
1.	The Gangmasters Licensing Authority (GLA) includes, as a licensing standard, a requirement for agencies to translate key employment documents into a language the worker easily understands or to take alternative steps to ensure that the worker understands the contents of the documents (7).	The GLA's licensing standards are based on existing legislative requirements. This could only be introduced if a new legal requirement were to be introduced first.
2.	The GLA provide guidance to work agencies clarifying that, if they are asked by a processing firm to provide staff at less than the GLA indicative rate, or are aware of other agencies doing so, they should inform the GLA (21).	Such information would be useful in making the supermarket protocol operational. It could assist in obtaining support from the supermarkets to prevent pressure being exercised by the supply chain onto the LPs. If implemented, it may prevent a pressure by LUs to secure contract rates below the indicative charge rates. This would also remove any basis for LPs to argue there was a supply chain pressure to cut costs that led them to cut corners, and breach the licensing standards.
	Other recommendations (to Government)	
3.	The government ensures that the GLA is funded at an appropriate level to deliver its remit and deal with the widespread breaches of licensing standards revealed by this inquiry. As a minimum the recent increases in staffing should be maintained (20).	It is not appropriate for the GLA to comment on this recommendation
4.	The GLA be given formal authority and appropriate resources to investigate the new offence of forced labour when the legislation comes into force (25)	It is not appropriate for the GLA to comment on this recommendation
5.	The government work with the ETI to set up and lead a	The GLA will await any detailed proposals before making any

	representative industry task force to produce standardised recruitment and employment practices for the meat processing industry (45). This task force includes trade associations and other representative bodies, supermarkets, regulatory bodies, including the GLA and the Commission, selected work agencies and processing firms, the TUC, the Chartered Institute of Personnel and Development (CIPD) and relevant trade unions (46)	commitment
6.	Although outside the scope of this inquiry, we believe that there is a case for broadening the GLA's remit to include other sectors where low-paid agency workers are at risk of exploitation, and we encourage the government to positively consider this (49).	It is not appropriate for the GLA to comment on this recommendation