

# **Draft revised Licensing Standards**

**January 2009**

## Licensing Standard 1: Fit and Proper test

### 1.1 Critical: Fit and proper (was 1.1)

Individuals must be fit and proper.

#### Please note:

- The GLA fit and proper test applies to the principal authority, directors, partners, company secretaries, named individuals and anybody connected to the licence holder. These entities are referred to as the "*person*" below. A licence will only be issued to a business if the GLA is satisfied this fit and proper criteria is fulfilled.

Failure against this standard may lead to a licence being revoked with immediate effect.

In assessing "fit and proper", the GLA will have regard to matters including, but not limited to, those set out below in the list of bullets. The GLA treats each case on a case-by-case basis, taking account of the seriousness of, and circumstances surrounding the offence, the explanation offered by the convicted person, the relevance of the conviction and evidence of the person's rehabilitation.

The matters we will have regard include, but are not limited to:

- Whether the *person* has intentionally obstructed the GLA;
- Whether the *person* has been convicted of any criminal convictions unspent under the Rehabilitation of Offenders Act 1974. Particular consideration will be given to offences of dishonesty, fraud, violence, human trafficking, carrying offensive weapons, fire arms offences, intimidation, blackmail or harassment;
- Where during the course of a GLA investigation, there is evidence that brings into question the *person's* ability to act in a fit and proper manner ;
- Whether the *person* has contravened any of the requirements and standards of other regulatory authorities, including Berr, DWP, HMRC, HSE, UKBA, Police, local authorities or other overseas authorities;
- Whether the *person* has been a owner, director, partner, or concerned in the ownership or management, of a business that has gone into insolvency, liquidation or administration while the *person* has been connected with that organisation or within one year of that connection;
- Whether the *person*, or any business with which the *person* has been involved, has been investigated, disciplined, censured or criticised by a regulatory or professional body, a court or Tribunal, whether publicly or privately;
- Whether the *person* has been dismissed, or asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar;

- Whether the *person* has ever been disqualified from acting as a director or disqualified from acting in any managerial capacity;
  - Whether, in the past, the *person* has been candid and truthful in all their dealings with any regulatory body and whether the *person* demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards.
- The GLA will automatically refuse applications in the following circumstances:
- Once an applicant is found to be not fit and proper against standards 1.1 and 1.2 we will automatically refuse to grant a licence for two years from the date of the fit and proper decision.
  - Once an applicant is found to have been connected to someone who has been deemed to be not fit and proper against standards 1.1 and 1.2 we will automatically refuse to grant a licence for two years from the date of the fit and proper decision.
  - Where an applicant an applicant has been refused or revoked twice previously on breach of any standards other than fit and proper (1.1 and 1.2), we will automatically refuse to grant a licence for two years from the date of the second decision.
  - Where an applicant is found to have been connected to someone who has been refused or revoked twice previously on breach of any standards other than fit and proper (1.1 and 1.2), we will automatically refuse to grant a licence for two years from the date of the second decision.

*Reference: 3(2) and 4(2) of the Rules*

## **1.2 Critical: Principal Authority Competency Test** (new)

The GLA will consider the principal authority's competence and capability to hold a GLA licence in deciding whether they are "fit and proper". We will have regard to matters including, but not limited to:

- Whether the principal authority has an understanding of the GLA licensing standards. The minimum the GLA will expect to see on inspection not withstanding if the applicant or licensed business are supplying workers to GLA licensable sectors or not include:
  - (draft) worker contract
  - an understanding for ensuring the health and safety of workers
  - (draft) payroll arrangements including draft wage slips

- (draft) tenancy agreement if it is the intention of the licence holder to provide (or effectively provide) accommodation
- if the licence holder intends to provide transport, copies of the vehicles insurance, PSV registration, operator's licence and MOT certificate (if applicable)
- (draft) example how a worker file will be compiled
- an understanding of the illegal working requirements

The GLA will only accept draft documents where no workers are or have ever been supplied by the licence holder to GLA licensable sectors. In all other circumstances the GLA will expect to see evidence of practice used by the labour provider on a day to day basis.

**Please note:**

- Where this standard is failed for licence holders with a new Principal Authority, the licence may be revoked with immediate effect.

**1.3 Critical: Correcting Additional Licence Conditions (New)**

Licence holders must correct any additional licence conditions within the prescribed time period.

**Please note:**

- This includes notifying the GLA within 20 working days once they start to supply workers in the licensable sectors following the issue of a licence;
- This should be done in accordance with the GLA's guidance on clearing ALCs
- Failure against this standard will lead to a licence being revoked without immediate effect.

*Reference: 3(11) of the Rules*

**1.4 Changes in details (was 1.2)**

Licence holders notify the GLA within 20 working days if:

- the principal authority, directors, company secretary, partners or individuals named on the licence change;
- the Trading Name changes;
- Any of the contact details submitted during application change (i.e. address, email or telephone number);

- Any new criminal convictions for the principal authority, directors, company secretary or partners;

*Reference: 4(3) and 4(4) of the Rules*

**Please note:**

Non-compliance with this standard will contribute 16 points to a licensing standard compliance score. These 16 points will remain on the licence for a 12 month period and will count towards any subsequent inspection score.

**Licensing Standard 2: Pay and tax matters**

**2.1 Critical: PAYE, NI and VAT** (was 2.1, 2.2, 2.3)

- Licence holders who employ workers under a contract of employment or contract of services or engage them under a contract for services must:
  - Be registered with the HMRC and have a valid PAYE number; and
  - Accurately calculate and deduct tax and NI from all workers' pay and pay the correct amount to HMRC.
- Licence holders who exceed the VAT threshold are registered with HMRC, charge and pay the correct amount of VAT.

*Reference: ???*

**Please note:**

- Failure against this standard will lead to the licence being revoked without immediate effect.

**2.2 Critical: Minimum wage** (was 2.8 and 5.3)

- The worker must be paid at least the national minimum wage or, if applicable, in accordance with Agricultural Wages Order, taking into account the rules on accommodation charges.
- Sufficient records are kept to prove payment of NMW or AWO.

*Reference: National Minimum Wage Act 1998 and associated statutory instruments*

*Latest Agricultural Wages Order*

**Please note:**

- For breaches where rent charged is between the level of the accommodation offset and the appropriate Local Housing Allowance (LHA), we will class the failure as a non-critical non-compliance and will contribute 8 points to a licensing standard

compliance score. The GLA will not expect this non-compliance to be resolved within a set deadline (in the same way as other conditions which may be attached to a licence). These 8 points will remain on the licence for a 12 month period and will count towards any subsequent inspection score. Where rent is charged above the LHA, we will class the failure as a critical non-compliance. This only applies for situations where there is no element of on-call. Failure to pay correct levels for workers who work on-call will result in a critical non-compliance.

- Failure against this standard will lead to the licence being revoked without immediate effect.

### **2.3 Statutory Benefits** (was 2.9)

There is evidence that the workers receive paid statutory annual leave entitlement, statutory sick, maternity, paternity and adoption pay to which they are entitled.

*Reference: Employment Rights Act 1996*

*Agricultural Wages Order*

### **2.4 Payslips** (was 2.10)

Licence holders provide workers itemised accurate payslips for each pay period showing gross and net wages and amounts and purposes of deductions.

*Reference: Section 8 of the Employment Rights Act 1996*

## **Licensing standard 3: Forced labour**

### **3.1 Critical: Physical and Mental mistreatment** (was 3.1)

Workers are not subjected to physical or mental mistreatment and no threats should be made to the workers or others in order to force the worker to comply.

*Reference: ???*

#### **Please note:**

- Failure against this standard may lead to a licence being revoked with immediate effect.

### **3.2 Critical: Restricting Workers Movement, Debt bondage and Retaining ID documents**(was 3.2, 3.3, 3.5, 3.6)

➤ Licence holders must not:

- Restrict the worker's movement. There should be no debts between the licence holder and worker that prevent the worker freely seeking other employment. Workers must be free to work elsewhere without incurring (or fear of incurring) any other detriment.

- Subject or threaten to subject workers any detriment because the worker has terminated or given notice to terminate any contract between the worker and the licence holder or the worker has taken up or proposes to take up employment elsewhere.
- Require workers to notify them of the identity of any future employer
- Force or coerce workers to work against their will.
- Retain identity papers, except for time required for illegal working checks
- If a worker is loaned money directly or indirectly by the licence holder to meet their travel or other expenses to take up a position, the worker:
  - Cannot be required to repay a sum greater than the sum loaned;
  - Must be provided with full details of the repayment terms of any loan in writing

**Please note:**

- Workers contracts must not include the above terms.
- Licence holders have not made any other efforts to impose such detriments. An example of a detriment would be withholding payment or deducting a proportion of the hourly rate for any period already worked.
- Failure against this standard will lead to a licence being revoked with immediate effect.

*Reference: Paragraphs 4, 13 and 17(7) of the Schedule in the Rules*

**3.3 Critical: Withholding Wages** (was 2.7)

Licence holders must not withhold or threaten to withhold the whole or part of any payment to a worker in respect of any work they have done on the basis that:

- the licence holder has not received payment from the labour user; or
- the worker has failed to prove that they have worked during a particular period of time; or
- the worker not having worked during any period other than that the payment relates; or
- any matter within the licence holder's control.

**Please note:**

- Failure against this standard will lead to a licence being revoked with immediate effect.

*Reference: Paragraph 8 of the Schedule in the Rules*

## **Licensing Standard 4: Accommodation**

### **4.1 Critical: Quality of accommodation** (was part of 4.3)

Licence holders who provide, or effectively provide, accommodation must ensure the property is safe for the occupants.

#### **Please note:**

- There must be no category 1 hazards as assessed under the Housing Health and Safety Rating System. This includes excessive overcrowding of accommodation.
- There are no conditions in the accommodation that would constitute being prejudicial to health under the Environmental Protection Act 1990
- Furniture and furnishings supplied in the accommodation must comply with The Furniture and Furnishing (Fire) (Safety) Regulations 1988 (as amended).
- Gas installations are maintained at least annually by a registered installer to ensure they are safe.
- Electrical equipment (including the fixed wiring and any appliances) must be safe and properly maintained
- Failure against this standard will lead to a licence being revoked with immediate effect.

*Reference: Housing Act 2004 and associated statutory instruments*

### **4.2 Critical: Licensing of Accommodation** (was part of 4.3)

- Licence holders who provide, or effectively provide, accommodation must ensure the property is licensed or registered:
  - if it is a licensable House of Multiple Occupation; or
  - is in an area subject to selective licensing; or
  - under the Caravan Sites and Control of Development 1960 where the accommodation is provided in caravans.
- Licence holders who provide accommodation in Scotland must be registered with the Local Authority as a private landlord.

#### **Please note:**

- Failure against this standard will lead to a licence being revoked without immediate effect



*Reference: ???*

#### **4.3 Situations where workers are provided with travel or required to live away from home** (was LS 4 guidance, 4.1)

- Licence holders must not arrange work for a worker (except where they are employed by the labour user) if, in order to take up that work they must live away from home, unless it has taken all reasonable steps to ensure that:
  - suitable accommodation will be available for the worker before they start work;
  - the worker has been informed of details of the accommodation including any cost to them; and suitable arrangements have been made for them to travel to such accommodation
- Where workers are not the employee of the labour user; or the worker is under 18 years of age, and, in either situation, the licence holder has arranged free travel or payment of the workers fares for the journey to work, the licence holder must, if the work does not start or when it finishes either make appropriate arrangements so that the worker may return at no expense to the worker, and give notice to the worker setting out the details of the free travel or payment of fares including any conditions on which these arrangements are offered.
- The licence holder must not introduce or supply workers under 18 years old for work where they are required to live away from home, unless the licence holder has obtained direct consent from a parent or guardian.

#### **Please note:**

- Where the labour user does not comply with its undertaking to arrange free return travel or pay the return fare, the licence holder must either arrange free travel for the return journey of the worker or alternatively pay their fare.

*Reference: Paragraph 17 of the Schedule in the Rules*

#### **4.4 Tenancy notice periods** (was 4.2)

Where workers live in accommodation provided, or effectively provided, by the licence holder, they are allowed to find suitable alternative accommodation after giving the required notice period.

*Reference: ???*

### **Licensing Standard 5: Working conditions**

#### **5.1 Rest breaks** (was 5.1)

Workers must be able to take legal minimum rest periods.

#### **Please note:**

- Minimum rest periods are 20 minutes break after 6 hrs; 11 hours break between shifts; 1 day off per week (or 2 days in 14).

*Reference: ???*

## **5.2 Working hours** (was 5.2)

Workers are not forced to work more than 48 hours a week on average unless they agree to work beyond this limit - any agreement must be in writing and signed by the worker. Workers are free to amend or cancel this agreement (subject to notice requirements).

*Reference: ???*

## **5.3 Right to belong to a trade union** (was 10.3)

Workers must not be prevented from taking up trade union membership nor be penalised for doing so.

*Reference: Trade Union and Labour Relations (Consolidation) Act 1992*

## **5.4 Providing workers in industrial disputes** (was 10.4)

Licence holders must not introduce or supply workers:

- to replace workers taking part in an official strike or any other industrial action; or
- to do work of someone who has been transferred by the labour user to perform the duties of the person on strike or taking industrial action.

### **Please note:**

- this standard will not be failed if the licence holder does not know, or has no reasonable grounds for knowing, that official strike action is in progress.
- this standard does not apply to unofficial strike action

*Reference: Paragraph 5 of the Schedule in the Rules*

## **5.5 Confidentiality** (was 3.9)

The licence holder must not disclose any information about a worker without their prior consent unless it is:

- required by any other licensing standards;
- for any legal proceedings (including arbitration);
- in the case of a worker who is a member of a professional body, to the professional body of which they are a member;

- to apprehend or prosecute offenders;
- for national security; or
- required by any other law

**Please note:**

- If the worker gives consent and then withdraws it, the licence holder cannot consider itself to have the workers prior consent. In addition, it may not make provision of its services conditional upon the worker giving their consent or agreeing not to withdraw it once it has been given.

*Reference: Paragraph 18 of the Schedule in the Rules*

**5.6 Disciplinary and Grievance Procedures** (was 3.8)

Licence holders properly deal with disciplinary matters or complaints.

*Reference: Employment Act 2002*

**5.7 Discrimination** (was 7.1)

Workers or applicants must not be unlawfully discriminated against.

*Reference: ???*

**Licensing Standard 6: Health and Safety**

**6.1 Critical: Protecting Workers from Serious Injury**

Where health and safety is the responsibility of the licence holder, workers must not face an unmitigated significant risk of serious injury.

**Please note:**

- Failure against this standard may lead to a licence being revoked with immediate effect.

*Reference: ???*

**6.2 Assigning Responsibility and Assessing Risk** (was 6.1)

Licence holders must co-operate with the labour user to ensure that:

- Responsibility for managing the day to day health and safety of the workers has been agreed and assigned;
- Suitable and sufficient health and safety risk assessment has been completed (and where required recorded) before work commences;

- Any risks identified must be properly controlled.

*Reference: Management of Health and Safety at Work Regulations 1999*

### **6.3 Instruction and Training** (was 6.2 and 6.4)

- Licence holders must co-operate with the labour user to ensure responsibility for :
  - Any health and safety training, including induction training deemed necessary to carry out the work safely has been agreed and assigned;
  - The workers provided have received any necessary health and safety (including induction) training appropriate to the site(s) at which they are working and the work they have been employed to do. The information and training should be comprehensible. ;
- No charge is made for health and safety training. Any time spent training should be treated as an extension of time at work.

#### **Please note:**

- Employees and workers who would be legally regarded as employees for health and safety purposes cannot be charged for health and safety training.

### **6.4 Safety at work** (was 6.6)

Licence holders must co-operate with the labour user to make sure that:

- Adequate and appropriate personal protective equipment is provided. Employees and workers who would be legally regarded as employees for health and safety purposes must be provided with PPE without charge.
- Adequate arrangements have been made to provide welfare facilities (sanitary conveniences, washing facilities, drinking water, facilities for changing clothes and for rest and consuming food and drink) where it is reasonably practicable to do so. Where a specific requirement for welfare facilities has been identified under other legislation, the requirement is absolute.
- Adequate arrangements have been made for first aid and the recording and reporting of reportable incidents at work.

#### **Please note:**

- Licence holders must not ask for money for PPE from employees and workers who would be legally regarded as employees for health and safety purposes. This includes seeking refundable or non-refundable deposits.
- If a worker fails to return the PPE after their employment has finished, then, as long as it has been made clear in writing, the licence holder may deduct the cost of the replacement from any wages owed.

- Accidents should be properly investigated so that the lessons can be learned and changes can be made to ways of working, equipment or supervision if necessary.

*Reference: Personal Protective Equipment at Work Regulations 1992*

*Workplace (Health, Safety and Welfare) Regulations 1992*

*Health and Safety (First Aid) Regulations 1981*

*Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995*

## **6.5 Critical: Transport** (was 6.8, 6.9, 6.11)

Any vehicles used by the licence holder to transport workers:

- Must be appropriately licensed with the DVLA, have a valid vehicle licence (tax disc), applicable MOT certificate (if required) and insurance. Drivers must also hold a valid driving licence and Driver Certificate of Professional Competence.
- Must be in a roadworthy condition and have no obvious or identifiable defects
- Have documentary evidence that vehicles with nine or more passenger seats used for hire and reward are registered and maintained as Public Service Vehicles (PSV) and have a Certificate of Initial Fitness. Drivers must have Passenger Carrying Vehicle (PCV) entitlement.
- Must comply with rules covering drivers' hours and tachographs.

### **Please note:**

- In assessing whether a vehicle has "obvious or identifiable" defects, we apply a common sense test of whether the vehicle is clearly unsafe, for example, without seatbelts or with unsafe seats and doors.
- Failure against this standard may lead to a licence being revoked with immediate effect.

*Reference: ????*

## **6.6 Critical: Using workers to gather shellfish - Planning and Supervision** (was 6.12, 6.13, 6.14, 6.15)

- Licence holders must ensure each group of workers have a recognised and competent supervisor/group leader who must:
  - Have knowledge of local tide tables and an accurate watch;
  - Have knowledge of current and forecast weather conditions;

- Have knowledge of local conditions, e.g. quicksand, shifting gullies, rivers in flood, the nature and speed of the tide;
  - Be able to communicate directly with workers under their control;
  - Have a suitable communications device – either a VHF marine band radio or a mobile telephone according to reception. Batteries should be sufficiently charged and the devices should be kept dry.
  - Have a location device, preferably a Global Positioning Unit (GPS) and/or compass
  - Have emergency telephone numbers for the Maritime and Coastguard Agency and other Emergency Services
  - Have emergency equipment – whistles in case of fog/mist and flares
  - Recognise that working at night creates additional risks and requires appropriate and special precautions
  - Accompany the workforce as appropriate when working below the high tide mark.
  - Be able to demonstrate they can adequately supervise all workers. The size of the group will depend on the experience of the gangmaster/supervisor as well as the prevailing weather and local conditions.
  - Allow extra time to get workers ashore safely.
  - Have high visibility clothing which is both warm and weatherproof available for the workers.
  - Notify the Maritime and Coastguard Agency Rescue and Coordination Centre of times going out/coming back, where the work is planned to take place, the size of the group, the licence holder's URN and contact detail.
- Any supervisor/ group leader must be named on the licence.

**Please note:**

- Failure against this standard may lead to licence being revoked with immediate effect.

*Reference: Paragraph 23 of the Schedule in the Rules*

*HSE Guidelines for safe working in estuaries and tidal areas when harvesting produce such as cockles, mussels and shrimps*

**6.7 Critical: Using workers to gather shellfish - Getting to the Work Area** (was 6.16, 6.17, 6.18, 6.19, 6.20.)

Licence holders must ensure:

- Vehicles used to access the fishery are suitable for the work area and should have sufficient fuel for emergencies. If access is via public roads, all vehicles must be roadworthy and properly insured.
- Where trailers pulled by tractors are used to carry passengers, they must be suitable, including fitted with headboards, tailboards and suitable side protection to prevent passengers falling off and provided with adequate means of communication between the cab and trailer. Passengers should not be carried in tractor cabs (unless the manufacturer has provided a second seat), on tractor steps or on the drawbar. .

**Please note:**

- Failure against this standard may lead to a licence being revoked with immediate effect.

*Reference: Road Traffic Act ????*

**6.8 Critical: Using workers to gather shellfish - Lifejackets and Liferafts** (was 6.21)

Where applicable, users of lifejackets and liferafts must be properly trained and instructed in their use. They must be able to operate them in an emergency. The devices must also be routinely checked and maintained in accordance with the supplier's instructions.

**Please note:**

- Failure against this standard may lead to a licence being revoked without immediate effect.

*Reference: HSE Guidelines for safe working in estuaries and tidal areas when harvesting produce such as cockles, mussels and shrimps*

**6.9 Critical: Using workers to gather shellfish - Use of Boats** (was 6.22)

Any boat used for accessing fisheries and transporting persons must be an Maritime and Coastguard Agency certificated workboat.

**Please note:**

- Failure against this standard may lead to a licence being revoked with immediate effect.

*Reference: Maritime Guidance Note MGN 280 (M)*

**6.10 Critical: Shellfish gathering permits and licences** (was 1.4)

Where a permit or licence of shellfish gathering is required, the licence holder must ensure that the workers possess and comply with that permit or licence.

**Please note:**

- Failure against this standard may lead to a licence being revoked with immediate effect.

*Reference: Paragraph 23(6) of the Schedule in the Rules*

**Licensing Standard 7: Recruiting Workers and Contractual Arrangements**

**7.1 Critical: Fees and Providing Additional Services** (was 7.2)

- Workers must not be charged a fee for any work finding services.
- Licence holders must not make providing work finding services conditional on the worker:
  - using other services; or
  - hiring or purchasing goods

regardless of whether the service is provided by the licence holder or by any person connected to them. Workers who withdraw from or cancel from services must not suffer any detriment or penalty.

**Please note:**

- Failure against this standard will lead to a licence being revoked without immediate effect.

*Reference: Paragraph 2 and 3 of the Schedule in the Rules*

**7.2 Right to work** (was 10.1)

Workers must have entitlement to undertake the work in the UK for the work in question.

**Please note:**

- Workers' visa restrictions must be complied with.
- In the event that it is discovered that workers are not legally entitled to work in the UK, this standard will not be failed if the licence holder has established and retained a statutory excuse.

*Reference: Asylum and Immigration Act 1996*

*Immigration, Asylum and Nationality Act 2006*



## **7.3 Worker Contractual Arrangements and Records** (was 7.2, 7.3, appendix)

### **Terms and Conditions**

- For workers employed on a contract of service or contract for services, before supplying workers to a labour user, licence holders must agree in writing terms with the workers, including:
  - the type of work the licence holder will find or seek to find for the worker
  - whether the worker is or will be employed under a contract of service (i.e. a contract of employment) or a contract for services, and the terms and conditions that will apply
  - an undertaking to pay the worker for any work carried out regardless of whether the licence holder has been paid by the labour user
  - the length of notice the worker is required to give and entitled to receive to terminate any contract
  - either the worker's pay rate or the minimum rate to be expected (for example NMW or AWO)
  - details of the intervals at which remuneration will be paid
  - details of any entitlement to annual holidays and to payment in respect of such holidays (including AWO entitlement)
- A licence holder may not make the continued provision of any services by him to a worker conditional on the worker agreeing to any variation in the terms e.g. a change in the pay rate.
- Workers must be informed in writing of any fees relating to services which the worker has taken up. This should include a description of the service as well as explaining the worker's right to cancel or withdraw from the service and the length or notice period required.
- Terms may only be varied by written agreement from the worker. A copy of this agreement must be provided to the worker as soon as possible and no later than the end of the fifth working day following the day the variation was agreed.
- Workers who have been employed continuously for one month or more under a contract of employment must be given a written statement of employment particulars.

### **Worker Records**

Licence holders must record, as soon as

- The date terms are agreed between the licence holder and the worker

- The worker's name, address and, if under 22, date of birth;
- Any terms which apply or will apply between the licence holder and the worker, and any document recording any variation;
- Any relevant details of the worker's training, experience or qualifications and any authorisation to undertake particular work (and copies of any documentary evidence of the same obtained by the licence holder);
- The names of labour users or sub-contractors to whom the worker is supplied;
- Details of any resulting engagement and the date from which it takes effect;
- The date any contract was terminated (where applicable); and
- Where payments are made by a worker, other than those legally required, there is evidence of the worker's written consent.

**Please note:**

- Licence holders must record all terms in writing, where possible in one document, and give the worker the written terms before they provide services to the worker. This does not apply to licence holders who actually employ the workers it supplies under contracts of employment (as distinct from a contract for services) in accordance with Part 1 of the Employment Rights Act 1996.
- All records must be kept for at least one year;
- Licence holders may either keep records at the premises where they trade, or elsewhere, provided they are readily accessible and capable of being delivered to the licence holder's premises in the UK or to the Authority within two working days
- All records may be kept in written or electronic form
- The licence holder must record these terms in a single document and send a copy to the labour user as soon as reasonably practicable. The licence holder and the labour user agree to any variation in the terms set out in this document and the licence holder must provide a document containing details and the date of the variation as soon as is reasonably practicable.

*Reference: Paragraphs 9 and 10 of the Schedule in the Rules*

*Employment Relations Act 1996*

## **7.4 Labour User Agreements and Records**

### **Agreements**

The first time a licence holder provides services to a labour user, other than providing information, they must agree the terms and conditions which apply or will apply between them, including:

- Details of any fee which may be payable by the labour user to the licence holder including:
  - the amount or method of calculation of such a fee
  - the circumstances, if any, in which refunds or rebates are payable to the labour user and, if none is payable, a statement to that effect in the terms
- The procedure to be followed if a worker introduced or supplied to the labour user proves unsatisfactory

### **Records**

Every licence holder must record, as soon as reasonably practicable, the following details relating to labour users:

- The date terms are agreed between the licence holder and labour user;
- The labour user's name and address, and location of the place of work if different;
- Details of the position the labour user seeks to fill;
- The duration or likely duration of the work;
- Any experience, training, ability, qualifications, or authorisation required by the licence holder or labour user by law, or by any professional body; and any other conditions attaching to the position the labour user seeks to fill;
- The terms offered in respect of the position the labour user seeks to fill;
- A copy of the terms between the licence holder and the labour user, and any document recording any variation;
- The names of workers supplied;
- The details of each resulting engagement and date from which it takes effect; and
- Dates of requests by the licence holder for fees or other payment from the labour user and of receipt of such fees or other payments, and copies of statements or invoices.

### **Please note:**

- All records must be kept for at least one year;

- Licence holders may either keep records at the premises where they trade, or elsewhere, provided they are readily accessible and capable of being delivered to the licence holder's premises in the UK or to the Authority within two working days
- All records may be kept in written or electronic form
- The licence holder must record these terms in a single document and send a copy to the labour user as soon as reasonably practicable. The licence holder and the labour user agree to any variation in the terms set out in this document and the licence holder must provide a document containing details and the date of the variation as soon as is reasonably practicable.

*Reference: Paragraphs 11, 19, 20 and 22 of the Schedule in the Rules*

## **7.5 Restriction on Charges to Labour Users** (was 3.4)

No worker should be disadvantaged from taking up permanent employment by the imposition of a transfer fee other than those legally allowed.

*Reference: Paragraph 7 of the Schedule in the Rules*

## **Licensing Standard 8: Sub-contracting**

### **8.1 Critical: Using subcontractors** (was 8.1)

Licence holders only use subcontractors who hold a current GLA licence.

#### **Please note:**

- Failure against this standard may lead to a licence being revoked with immediate effect.
- The standard will not be failed if the licence holder has complied with the Reasonable Steps guidance or the GLA's Active Check process for verifying if the sub-contractor is licensed.

*Reference: Section 13 of the Gangmasters (Licensing) Act 2004 (in situations where the licence holder is supplied with workers by unlicensed licence holder)*

### **8.2 Records dealing with other licence holders** (was part of 8.2)

Licence holders must record as soon as reasonably practicable the names of any other sub-contractors whose services the licence holder uses.

#### **Please note:**

- Records must be kept for at least one year

- Records may be kept at any premises a licence holder uses for or in connection with the carrying on of their business, or elsewhere; if kept elsewhere, the licence holder must ensure they are readily accessible and capable of being delivered to the licence holders' premises in the UK or to the GLA within two working days
- All records may be kept in written or electronic form.

*Reference: Paragraph 21 of the Schedule in the Rules*

## Comparison between old and revised version

Old Licensing Standard reference	New Licensing Standard reference	Comment
1.1	1.1, 1.2, 1.3	Reference to holding a GLA licence removed. Definition of fit and proper expanded.
1.2	1.4	Standard made clearer on what changes should be notified.
1.3	Removed	Not considered to be relevant for worker protection.
1.4	6.10	Moved alongside other standards relating to shellfish. Downgraded from Critical.
2.1	2.1	Old LS 2.1, 2.2 and 2.3 combined and upgraded to Critical.
2.2	2.1	See above.
2.3	2.1	See above.
2.4	Removed	Unnecessary. Payroll is dealt with under new LS 2.6.
2.5	7.3	Makes clearer on loan repayments.
2.6	Removed	Superfluous as covered under new LS 7.3.
2.7	3.3	Up graded to reflect forced labour seriousness.
2.8	2.2	Now includes explanatory text on how the accommodation offset will be tested and includes reworded 5.3
2.9	2.3	Slight rewording to improve clarity.
2.10	2.4	Slight rewording
3.1	3.1	Expanded to include threats and threats to persons connected with the worker.
3.2	3.2	Combines old LS 3.2, 3.3 3.5 and 3.6.
3.3	3.2	Incorporated into new 3.2.
3.4	7.5	Slight rewording
3.5	3.2	Combined into new 3.2.
3.6	3.2	Combined into new 3.2.
3.7	3.2	Slight rewording to improve clarity.
3.8	5.6	

3.9	5.7	
3.10	Removed	Not considered directly relevant. Any significant problems with not keeping data and records securely can be dealt with under new 1.1 under fit and proper grounds.
4.1	4.3	
4.2	4.4	Slight reword.
4.3	4.1 and 4.2	Reworded and split into new 4.1 and 4.2 to reflect the variety of issues relating to housing.
5.1	5.1	Reworded on advice from Berr.
5.2	5.2	Reworded on advice from Berr.
5.3	2.2	Reworded and now included in 2.2
6.1	6.2	Reworded.
6.2	6.3	Reworded.
6.3	6.2	Combined with new 6.2
6.4	6.3	Combined with new 6.3.
6.5	6.2	Combined with new 6.2
6.6	6.4	Reworded to make clearer on PPE charging.
6.7	Removed	Sufficiently covered by new 7.3
6.8	6.5	Old LS 6.8, 6.9, 6.11 combined.
6.9	6.5	See above.
6.10	Removed	New 6.5 considered sufficient.
6.11	6.5	Combined into new 6.5.
6.12	6.6	Old LS 6.12, 6.13, 6.14 and 6.15 combined
6.13	6.6	See above
6.14	6.6	See above.
6.15	6.6	None
6.16	6.6	Combined old LS 6.16, 6.17, 6.18, 6.19 and 6.20)
6.17	6.6	See above.
6.18	6.6	See above.
6.19	6.6	See above.
6.20	6.6	See above.
6.21	6.8	None
6.22	6.9	None
7.1	5.8	Slight rewording.

7.2	7.1, 7.3	New LS 7.1 upgraded.
7.3	7.3	Slight rewording
7.4	7.3	Covered in new 7.8.
7.5	Removed	Removed as not considered necessary for worker protection
	NB new 7.4	New standards added to reflect wording of legislation and information previously covered in guidance sections and appendix.
8.1	8.1	Slight rewording to improve clarity.
8.2	8.2	Part of old 8.2 removed as considered unnecessary.
8.3	8.2	Covered in new 8.2.
8.4	Removed	3.2 sufficiently covers this requirement.
9.1	7.3	Covered under 7.3.
9.2	7.3	New 7.3 covers this point
9.3	6.2	New 6.2 covers risk assessments
9.4	Removed	Problems of underage working will be dealt with under 1.1
10.1	7.2	Reworded to reflect legislation.
10.2	Removed	New 7.2 considered sufficient.
10.3	5.3	None.
10.4	5.4	None.