

GLA19/7.1 Naming Revoked Licences Before Appeal

June 2008

BOARD PAPER REFERENCE – GLA19/7.1 – Naming Revoked Licences before Appeal

Issue

1. Board members have previously canvassed the possibility of naming revoked licence holders before the period within which they can appeal is exhausted. This would be part of the naming and shaming strategy and as such a press release would be issued.

Recommendations

2. The GLA will not name licence holders who have had their licence revoked without immediate effect until either the appeal has been heard or the period within which an appeal can be lodged has expired.
3. The GLA will use its power under the rules at 3(11) to add a condition to all licences that any labour provider must advise any labour user with whom they are dealing if their licence is revoked when they receive the decision letter from us.
4. The GLA will continue to name licence holders before appeal in cases where the licence has been revoked with immediate effect.

Background

5. The External Communications Strategy is focused on achieving high level media coverage to ensure that labour providers, labour users and key stakeholders are aware of action that the GLA is taking. A key part of the strategy is the naming and shaming of labour providers who have their licence revoked. Currently, the GLA issues a press release once the appeals process has been exhausted unless the licence has been revoked with immediate effect. In cases where the licence has been revoked without immediate effect the labour provider is allowed to trade until the appeal has been decided or the period within which an appeal can be made has expired. However, where the licence is revoked with immediate effect then the labour provider must cease trading immediately.

Argument

6. The GLA has sought legal advice from DEFRA on the possibility of legal action if we were to move to issuing a press release as soon as a decision has been made to revoke a licence without immediate effect. We have been advised that there is a risk that the labour provider may take legal action against the GLA, if they were subsequently successful at appeal. However, this should be balanced against the need for the labour user to be aware that their business could be disrupted mid-contract.
7. To alleviate this, the GLA will be issuing advice to labour users that a labour provider will only have their name removed from the public register once revocation is confirmed following exhaustion of the appeals procedure. If they

are in any doubt they should ask the labour provider if the licence is in jeopardy. The GLA has a power under the rules at 3(11) to add conditions to the licence at any point. The GLA could make it a condition of the licence that the labour user is advised when the licence is revoked. Those who have subscribed for the active check will be advised when the entry is removed from the register.

8. Were the GLA to add such a condition to all licences, no bona fide labour provider would receive a detriment. Most labour providers whose licences are be revoked apply for a new one immediately. In reaching a conclusion on whether to grant a new licence, a failure by the licensee to conform with this condition would be prima facie evidence that he was not a fit and proper person.
9. To obviate the risk of legal action against the GLA, press releases will not be issued until the appeal process has been exhausted in cases where the licence has been revoked without immediate effect. In cases where revocation is immediate then the GLA will continue to issue press releases because the Labour provider is not permitted to trade and so the risk of legal action is minimal.
10. The GLA is currently exploring the possibility of having a list of revoked labour providers on the website for a short period of time. However, there are some difficulties with this because many revoked licence holders successfully apply for a new licence and so this could cause confusion. The GLA will advise board members when this facility is available.

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