

GLA 20/8.1

Licensing Standards Consultaion

8 October 2008

BOARD PAPER REFERENCE – GLA 20/8.1 – Licensing Standards consultation

Issue

1. To update the Board on the GLA Licensing Standards consultation.

Recommendation

2. The Board is invited to submit formal consultation responses by **24 October 2008**.

Background

3. A consultation reviewing the GLA Licensing Standards was published on 4 August 2008. The document is split into two main parts: chapter two details changes we are intending to make. Chapter three highlights issues where we have decided upon a preferred approach. A copy of the consultation is at Annex A.

Key issues for discussion

4. We are interested to hear any views on how the standards could be improved. However, there are some key issues for the Board to consider:

Definition of fit and proper

5. The consultation proposes enhancing the current definition of fit and proper by including a restriction which prevents anyone being granted a licence if they have been refused or revoked on two previous occasions (either as a business or an individual involved with a refused or revoked licence holder). Subject to consultation responses, the GLA is considering introducing such a restriction as soon as possible as a number of businesses are already falling into this category – a specific paper will be presented to January Board meeting.

Licensing Standards categories

6. While we expect licence holders to comply with all the standards that are applicable, so far we have taken a proportionate approach through the use of ALCs and do not count scores for lower levels of non-compliance (i.e. reportable and correctable standards) in deciding whether an inspection has passed or failed.
7. Views are invited on how reportable and correctable standards should be treated, for example the ALP have recommended reportable and correctable categories should no longer be used, with the standards in those categories removed, combined or upgraded.

Licensing Standard 2.8: Paying National Minimum Wage

8. Licensing standard 2.8 requires that “the worker is paid at least the national or agricultural minimum wage, taking into account the rules on accommodation charges”. This standard is designated as “critical”. Some stakeholders have called for reference to the agricultural minimum wage to be removed as it provides benefits to workers over and above the national minimum wage, for example through overtime payments, and therefore is concerned with matters beyond protecting workers on the minimum wage. We do not intend to accept this proposal as the payment of the agricultural minimum wage is an important legal requirement of working in agriculture. However, it seems incorrect payment of overtime rates is not as serious as non-payment of the minimum wage itself. Therefore, we would welcome views on whether a separate additional standard should be introduced which covers agricultural minimum wage overtime payments. This new standard could be classified as “major”. This would be a more proportionate score for non-compliance with overtime payments.

9. Licensing standard 2.8 currently refers to complying with the accommodation offset. The accommodation offset is currently set at £30.10. We are aware that a number of reputable labour providers no longer offer accommodation because of the difficulty in providing adequate housing for this amount. This could create a situation where workers are exploited by unscrupulous landlords. Where labour providers provide accommodation, the crucial matter for the GLA is the nature of the relationship between the worker and labour provider (e.g. debt bondage, where the workers are tied to the accommodation). A person may freely choose to pay a higher rate than the offset for a labour provider’s accommodation where the housing is adequate and reasonable value. The accommodation offset may technically be breached. However, we do not consider that this would represent exploitation. We would welcome views on how the licensing standards could best take account of such a scenario.