

This Brief explains how the Gangmasters Licensing Authority (GLA) tests employment status

Introduction

The GLA checks employment status to make sure licence holders comply with the Authority's Licensing Standards (i.e. whether an individual is an employee, a worker or self-employed).

The GLA conducts these checks because:

- some standards apply to all individuals regardless of employment status
- some standards apply only to those individuals who are a worker or an employee.

The GLA, through its inspection process, will check employment status to identify whether a person is genuinely "self-employed", a "worker" or an "employee".

Further guidance on the different types of status is available on Direct Gov:

www.direct.gov.uk/en/Employment/Understandingyourworkstatus/DG_10027916

How GLA Examines Employment Status

During an inspection, the GLA will first establish the terms of engagement the licence holder has with the worker. The GLA will then consider whether the documents reflect the true agreement between the parties and whether the reality of the relationship between the worker and licence holder reflects the wording of the contract.

In order to do this, GLA inspectors will want to see worker contracts and then interview a sample of workers as well as the licence holder and labour users. Those interviews will explore the reality of the employment relationship, and look at the way that the workers carry out their duties and the way in which they are treated.

A GLA inspector will ask a range of questions, including:

- Is the individual subject to control and supervision?
- Is the individual told where to work, how to do the work and moved to different tasks as required?
- Must they perform the work themselves?

Answering "yes" to these questions indicates that the individual should be considered at least as a "worker" and not "self-employed"

- Can they refuse work that is offered to them?
- Can they choose their own working hours?
- Can they/are they required to send a substitute if they do not work?
- Has this substitution ever occurred? If not, could this realistically take place?
- Does the individual take any financial risk?
- Does the individual have to rectify faulty work/make good loss or damage in their own time at their own expense?
- Has the individual negotiated his/her terms and conditions?
- Has the individual provided any of his/her own equipment or tools to perform the work?

Answering "no" to these questions indicates that the individual should be considered at least as a "worker" and not "self-employed".

The GLA Licensing Team will review the evidence gathered to determine whether there has been compliance with the Licensing Standards as part of making a licence decision.

Further information

If you would like any help or guidance, more information is available on the GLA website, www.gla.gov.uk. You can also contact our helpdesk:

Email: licensing@gla.gsi.gov.uk

Telephone: +44 (0) 845 602 5020

If you have received a hard copy of this Brief but would prefer electronic versions in future, please email communications@gla.gsi.gov.uk