



## Compliance update

November 2018

Licence holders: 1000

Ongoing applications: 39 (with a further 23 being processed and at various stages)

Ongoing compliance inspections: 42 (Including compliance, new business and change of Principal Authority)

### Common areas of non-compliance

Licensing Standard	Title	Non-compliance
1.4 Changes	Reporting	Common fault is not updating Licensing under 1.4. Everything from Directors to moving offices to a PA leaving.
2.1 PAYE	HMRC debts	There has been an increase in the number of licence holders going into liquidation with HMRC debts.
	PAYE/VAT	LU's failing to check why low charge rates are being offered.
2.2 Paying Wages	Travel Time	Payment between assignments is an issue under scrutiny and review by HMRC.
	Training Time	Evidence that this is not being paid by some LPs debate between LP/LU over who should be responsible. LPs questioning whether they have to pay for training if workers are above NMW
	AWO	Knowledge of the Agricultural Wages Order (AWO) required for workers in Scotland and Wales

	<p>Umbrella Companies</p> <p>NMW</p> <p>Bank Accounts</p>	<p>Most umbrella company's contracts don't have the clause that workers will be paid regardless of whether the employment business gets paid. Umbrella company's contracts are often out of the control of the LP</p> <p>Fuel and utilities charges in breach of NMW offset.</p> <p>Lack of supporting evidence to confirm workplace transport and associated charges is optional.</p> <p>Lack of supporting evidence to confirm pre-paid credit card services are optional.</p> <p>Failure to check why workers have no bank accounts for long periods working with UK.</p>
2.5 Holiday Pay	Holiday pay	<p>This area still remains the most common in terms of alleged non-compliance with large amounts of holiday pay being alleged as unpaid to workers. Workers not being advised of the balance of days and hence are losing out at year end.</p> <p>Evidence of "rolled up or inclusive" holiday pay.</p> <p>Lack of understanding of their holiday entitlement. No details at all provided in some cases</p> <p>In some cases workers may be losing out because they cannot take the leave that they have accrued within the last month as some employers will not allow them to take holiday.</p>
3.1 Mistreatment	Threats	Workers continue to be subjected to threats of sack if they did not stop complaining about problems.
3.2 Bonded Labour	Passports	Evidence during the soft fruit season that passports were being removed from workers on arrival at seasonal work contracts and held until the contract completion

3.3 Withholding wages	Various	Mainly associated with holiday pay but we have received allegations of disputes over hours worked and wages being held back. Some of these have been identified as business error and have been resolved by the GLAA with direct contact.
4.1 Accommodation	Quality	<p>Poor due diligent checks on workers facilities within caravan / static accommodation.</p> <p>Sublet issues also identified with direct connections with PAs</p>
6.1 Risk	Risk Assessments	PA's visiting sites prior to a contract and during but not checking or being aware of RAs that affect their workers
6.2 – Instruction & Training	Training	<p>No specific training in place at LU sites. Workers not aware of H&amp;S issues or what they should follow on site etc.</p> <p>Consultants employed to carry out H&amp;S visits but no systems in place to record formally any findings and control actions.</p> <p>No formal training, passed on by other workers only</p> <p>Induction periods not being paid.</p>
6.3 – Safety at Work	PPE	<p>Allegations of PPE charges being made or workers made to buy</p> <p>Absence of PPE in some cases land workers and higher risk areas (chilled)</p> <p>Deposits charged for basic PPE</p> <p>Lack of supporting documentation to prove PPE has been allocated to workers</p>

	Night Workers	Health & RAs
	Accidents	PA's not familiar with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 and many weren't sure of when to refer an accident to the HSE.
6.4 - Transport	Drivers	Hours, Pay, Limits of Driving Hours, Insurance. More recently some vehicles seen transporting workers that were not safe or legal.  Failure by LU's to check safety of workers with LP cars / buses / drivers being sent to their sites
7.1 Fees & Services	Optional fees	This is an area that we continue to address especially with overseas businesses as workers report having to pay for services that may appear to be work finding fees GLA Brief 38 refers  Confusion over optionality
	Travel & Translation	Return fees being charged to workers going back to the same location  Large fees within these 2 areas being charged
7.2 Right to Work	ID Cards	ID cards running out of date during the workers placement within UK. (May be more relevant with BREXIT)
7.3 Contracts	Contracts	Lack of knowledge regarding contents of contract  Zero hour contracts (seasonal workers and outside of the GLAA sector)  Copies not being provided

		<p>LPs not checking against GLAA Standards prior to inspections:</p> <p>Example two LPs inspected this month submitted worker contracts which did not have points required under standards and both had paragraphs giving workers options to have holiday pay as part of weekly pay.</p> <p>Workers not sure who they are working for</p>
8.1 Sub-Contracting	Non-Declaration	<p>S/C arrangements are not being declared to LUs &amp; therefore there is no active check in place</p> <p>Increase in illegal trading discovered at Application Inspection stage resulting in delays or suspended applications pending enforcement action</p>

## Other issues reported or identified

Concerns over shortages of labour following BREXIT. Families returning home already seen All LP's and LU's visited have reported problems in sourcing workers now

Lack of control by LUs over provision of labour

Inspectors advised that most migrant workers are now going to work in Germany as pay is 12Euros/hour and there is no Brexit issue there.

With the new standards it is interesting to see how agencies treat workers in other sectors and below are themes from recent inspections.

Automotive - not providing overalls to workers when they are working in an environment of sparks, grease and oil. E.g. some of the workers had holes in tee shirts from sparks from robotic operations. Holiday pay-many workers losing holiday pay with the rolling annual holiday year. The majority of workers were not aware of their holiday year and lost holiday pay as a result. Agencies introducing a 'complicated' process to request a day off so many workers didn't bother unless it was vital.

Drivers - Similar issues with holiday pay one worker e.g. never received any holiday pay despite working nearly 3 years for the agency because he didn't know he was entitled albeit details are in worker contracts. Some drivers were working 16-17hour days (delivering vehicles around the UK) and driving at the back end of a shift.

The common theme from agencies is again around treating workers differently to what they would in sector e.g. the one agency rang workers as part of an audit process **but only sector workers** stating they did this as part of the modern slavery agenda. The inspector did point out modern slavery doesn't choose a sector and workers can be exploited whatever they do.

LU's failing to notice changes on LP labour invoices.

Failure by LU's to use GLAA active checks safeguards and understanding of what that provides

Failure by LU to check LP's supervisor's credentials who arrive on their sites to deal with workers.

Failure by LPs to question constant errors with names and times on LP charge rates/ invoices.,