

Equality of Opportunity Committee

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Issues Affecting Migrant Workers in Wales

Submission from the Gangmasters Licensing Authority



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A written submission for the Equality of Opportunity
Committee, National Assembly for Wales

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Contents

- 1. Introduction**
- 2. Background to the GLA**
- 3. The Licensing Process**
- 4. Offences under the Act**
- 5. Scale and type of activity in the GLA regulated sectors**
- 6. Licensing in Wales**
- 7. Raising awareness with workers**

1. Introduction

- 1.1. This paper explains the role and remit of the Gangmasters Licensing Authority (GLA), highlighting issues relating to Wales.

2. Background to the GLA

- 2.1. The Gangmasters (Licensing) Act 2004 paved the way for creating the GLA. Sponsored by the Department of Environment, Food and Rural Affairs, the GLA is a non-departmental public body and was set up in April 2005 to address worker exploitation in agriculture, shellfish gathering and food processing and packaging in the UK.
- 2.2. The regulatory means for achieving this is through licensing those who supply or use workers to provide a service in agriculture, shellfish gathering and food processing and packaging. For shellfish industry, anyone who uses workers to gather shellfish also needs to be licensed.
- 2.3. "Gangmasters", more commonly referred to as labour providers, range from recognisable high street employment agencies and businesses supplying large processing plants to small scale operators with a few workers providing agricultural services to local farmers, including those engaged in forestry.
- 2.4. The GLA finances its activities through licence fee income and enforcement monies from Defra. The Secretary of State has delegated his enforcement function to the GLA.
- 2.5. The Authority is directed by an independent Board (see annex B for a list of the Board's members).

3. The Licensing Process

- 3.1. To obtain and retain a licence, labour providers need to comply with the Authority's licensing standards. These conditions cover:
 - Paying national minimum wage, tax, National Insurance and VAT
 - No debt bondage, harsh treatment or intimidation of workers
 - Proper accommodation (where provided)
 - Employment rights (including no excessive hours, recruitment and contractual arrangements)
 - Health and safety
 - Using only licensed sub-contractors
 - No illegal working

- 3.2. These conditions are a reasonable range of measures that should be in place in any well-run business complying with the law. A licence will be refused or revoked if critical non-compliances are identified and/or total non-compliances exceed a pass score. Licences can also be issued with additional licence conditions, which have to be put right within a stipulated time period.
- 3.3. The Authority started accepting licence applications from 6 April 2006 (1 October 2006 for the shellfish gathering industry). The table at annex A provides statistics on the licensing scheme.
- 3.4. The Authority has memorandums of understanding (MOU) with the following organisations: Association of Chief Police Officers (ACPO), which includes the United Kingdom Human Trafficking Centre (UKHTC) and the Association of Chief Police Officers in Scotland; Employment Agencies Inspectorate, Department for Business, Enterprise and Regulatory Reform; Fraud Investigation Service, Department for Work and Pensions; Health and Safety Executive; HM Revenue and Customs; UK Border Agency; National Minimum Wage Enforcement Team, HMRC; and Serious and Organised Crime Agency.
- 3.5. These MOUs cover information sharing (using the gateway under s19 of the Act) and joint working. These agreements have created a framework for exchanging and collating vital intelligence which has focused the Authority's and other agencies operational work.

4. Offences under the Act

- 4.1. It is an offence to:
 - Operate as a gangmaster without a licence
 - Use an unlicensed labour provider
- 4.2. The maximum penalty for operating without a licence is a prison sentence of 10 years and a fine. The maximum penalty for using workers or services provided by an unlicensed gangmaster is a prison sentence of 6 months and a fine of £5000. As well as the criminal offence of using an unlicensed labour provider, it is also an offence punishable by up to 51 weeks imprisonment and a fine to:
 - Intentionally obstruct a GLA officer in their duties;
 - Fail to comply with a request of a GLA officer without reasonable cause;
 - Provide false information or provide a false statement to a GLA officer

5. Scale and type of activity in the GLA regulated sectors

- 5.1. Independent research by the Universities of Sheffield and Liverpool, commissioned by the GLA, presents a picture of the licensed sectors. Key points in this research include:

- The sectors regulated by the GLA are dominated by migrant workers. 91 per cent of licence holders (approximately 1,000 businesses) employ migrants in some capacity. 13 per cent use overseas agents to recruit workers.
- The majority of workers supplied to work in the licensed sectors are from the A8 countries.
- There is a considerable turnover in the industry: 60 per cent of respondents to a survey conducted by the researchers had been in the industry for less than five years. Most workers appear to remain with a gangmaster for less than 6 months before moving on.

5.2. This research is available on the GLA's website:
www.gla.gov.uk/index.asp?id=1013265

5.3. Research by Precision Prospecting¹ in 2004 indicated there were at that time between 420,000 and 611,000 temporary workers in the GLA sectors.

6. Licensing in Wales

6.1. There are 36 licence holders with head offices based in Wales. A further 2 applications are being processed for businesses in Wales.

6.2. Based on information declared on the GLA application form by the applicants, there are estimated to be approximately 5,500 workers supplied by GLA licence holders based in Wales. There is a mix of nationalities, including Welsh, English, Scottish, Polish, Lithuanian, Latvian, Estonian, Portuguese, Romanian, Slovak, Hungarian, Czech, Indian, Ghanaian, South African, Nigerian, Iraqi and Iranian.

7. Raising awareness with workers

7.1. The GLA has workers' rights information booklet in 15 languages, including Welsh. These leaflets give an overview of the GLA and employment rights in the UK, as well as providing contact details for further help and advice.

7.2. A newsletter for workers is produced 3 times a year and distributed to organisations throughout the UK. The newsletters feature different topics of interest to workers, and include information on the GLA and other relevant organisations.

7.3. The GLA website has a dedicated workers section with information in 6 languages. The website also includes a reporting form for people to submit intelligence to the Authority confidentially. This form is available in English, Polish, Lithuanian, Latvian and Portuguese.

¹ Precision Prospecting (2004a) *Temporary workers in UK agriculture and horticulture: a study of employment practices in the agriculture and horticulture industry and co-located packhouse and primary food processing sectors*. Defra: London

Annex A

Statistics as of 25 April 2008

Licences issued	1,195
with additional conditions	108
without additional conditions	1087
Refused applications	40
Licences revoked without immediate effect	55
Licences revoked with immediate effect	7
Enforcement investigations opened in 2007 – 08	127
Enforcement investigations closed in 2007 – 08	42
Formal Cautions issued in 2007 – 08	49
Written warnings issued in 2007 – 08	20 *
Enforcement Notices issued	15 *
(* some recipients will have received both)	

Annex B

Organisations and Government Departments represented on the Gangmasters Licensing Authority

The Association of Labour Providers
The Recruitment and Employment Confederation
National Farmers Union
National Farmers Union Scotland
Trades Union Congress
Unite
Britain's General Union
Union of Shop, Distribution and Allied Workers
British Retail Consortium
Fresh Produce Consortium
Food and Drink Federation
Sea Fish Industry Authority
Shellfish Association of Great Britain
Association of Chief Police Officers
Police Superintendents' Association of England and Wales
Local Authority Coordinators of Regulatory Services
National Association of Citizens Advice Bureaux
Secretary of State for Home Affairs
Secretary of State for Work and Pensions
Secretary of State for Environment, Food and Rural Affairs
The Commissioners of Inland Revenue and the Commissioners of Customs and Excise jointly
Secretary of State for Trade and Industry
The Director General of the Health and Safety Executive
The Scottish Ministers
The National Assembly for Wales
The Minister for Agriculture and Rural Development for Northern Ireland
Ethical Trading Initiative (official observer)