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**INQUIRY UNDER SECTION 16 OF THE EQUALITY ACT 2006 INTO THE MEAT AND
POULTRY PROCESSING SECTORS IN ENGLAND AND WALES**

**COMMENTS ON THE TERMS OF REFERENCE BY THE ASSOCIATION
OF LABOUR PROVIDERS**

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Introduction

The Equality and Human Rights Commission has announced commencement of a formal Inquiry into the employment and recruitment practices in the meat processing sectors in England and Wales using powers granted to the Commission under section 16 of the Equality Act 2006 (the Act). Comments and representations as to the nature or content of the terms of reference have been requested by 14th November 2008.

This paper is the response of the Association of Labour Providers (ALP). The ALP was established in 2004 and now has some 220 members all of which are regulated by the Gangmasters Licensing Authority. For the most part the members provide labour to the food and agricultural sectors. They provide much of the labour to meat processing businesses.

The ALP will co-operate with the enquiry, providing as much information and assistance as it can. However, the terms of reference are far from coherent, which will make it difficult to undertake a useful exercise. It is not at all clear to the ALP why the Commission has selected a sub sector (with different definitions within the terms of reference) of the food packaging and processing industry. Before beginning the formal enquiry the Commission should publish the evidence it refers to together with an explanation of why this sub sector of the economy, as opposed to others, was selected for an inquiry. This will help stakeholders prepare appropriate evidence.

Set out below are a number of general and specific comments on the terms of reference. The association would be happy to discuss these with the commission.

General Comments

1. The inquiry will be into the “meat processing sectors in England and Wales”. Meat processing is not regarded as a sector, and there are certainly not separate sectors in England and Wales. Meat processing is part of a wider food processing industry. Businesses and workers are unlikely to be involved in meat processing only. The inquiry therefore has an artificial boundary. (The Commission flits between referring to meat and poultry processing and meat packing – the two are different.)

2. One would expect such an inquiry to have followed a preliminary investigation and to be justified by evidence. The letter to stakeholders stated that “The decision to commence the inquiry was made as a result of evidence suggesting that the meat processing sector is characterised by low pay, and has become reliant on agency and migrant workers”. This is stating the obvious. Unskilled jobs attract low pay and most low paid work is done by migrant workers. This is true of hospitality, catering and the health service as well as food processing. It would be helpful if the Commission could publish the evidence it refers to so stakeholders can know why meat processing has been singled out for the inquiry.

3. The commission seems to have formed a view that permanent directly employed workers is the ideal with any other arrangements being “atypical”. In much of the economy far more flexible arrangements prevail, which suit both workers and businesses. The Commission has also confused temporary workers with agency workers. Some workers are permanently employed by agencies while many businesses employ workers on a temporary basis. And given the definition of “atypical” workers which the commission has chosen to use it should not then refer to “agency, temporary and atypical workers”.

4. The Commission is charged with eliminating discrimination “on the grounds of age, disability, race, religion and belief, gender and sexual orientation”. The workers in the meat processing industry are largely white Europeans. It is not clear why this is a priority for the Commission.

5. The sector chosen is one that is already subject to a highly intrusive specific regulator in the form of the Gangmasters Licensing Authority. The Commission should explain why it has selected such a sector as opposed to a sector for which there is no regulator.

6. The terms of reference must at least acknowledge the huge amount of research already done into employment in the sectors covered by the Gangmasters Licensing Authority, both by Defra prior to the Gangmasters Licensing Act being enacted and subsequently under the auspices of the GLA. Clearly as this sector is within the province of the GLA it should be acknowledged that the GLA’s regulatory work will be scrutinised.

7. The terms of reference should provide a timeframe for the inquiry.

8. The Association would like the terms of reference to make clear whether in accordance with Section 16 (2) of the Act if in the course of the inquiry the Commission begins to suspect that a person may have committed an unlawful act whether the Commission may commence an investigation into that unlawful act under section 20 of the Act.

Specific Points (using the Terms of Reference numbering)

1. There should be a definition of the term “meat and poultry processing sectors”. For example does this include farming, poultry houses, abattoirs, slaughter houses, carcass breakdown, butchery, raw and or cooked meat processing? Does it include meat and poultry processing for inclusion in other products such as ready meals? Will it only include meat and poultry processing for human consumption or will it include pet and animal food processing as well?

2. The term “working arrangements” should be defined.

It should be made clear in the terms of reference that “the reasons for the differentials” will examine supply chain influences.

3. The term “related to” is vague. This requires further expansion. The words “in treatment” should be removed as they ignore the effect of market conditions.

4. How will “social cohesion” be defined? It is important that this is clear in the terms of reference rather than being developed as the inquiry is progressed.

5. Following the term “To identify good practice” should be added the words “and the cost implications of this”.

6. The term “substantive equality of opportunity for workers and recruits” does not define between whom. Is this stating between directly employed workers and atypical workers?

Added to this should be the cost impact of such measures and the effect this will have on the businesses to which it would apply.

As drafted this paragraph is dealing with a much narrower sector of the economy (meat packing) than the previous five points which are concerned with “meat and poultry processing”.

7. Recommendations to whom?

“Definitions”

If a worker is self employed then by definition they cannot be employed. It would also be helpful to define “permanent”. Does it mean employed by the relevant business under a contract of employment? If so it needs to be noted that such workers may be very temporary and conversely some contract workers may be very permanent.