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Checklist for Using Labour Providers

Introduction

Using a labour provider should provide a time saving, cost effective solution to your business. The flexibility of temporary working allows labour users to react quickly to additional orders or shortfalls, production variations and seasonal fluctuations. They can also cover absences such as sickness, holiday and maternity.

This document contains the reasonable steps that a Labour User can take to ensure that temporary labour supplied through a labour provider is being treated legally and ethically.

STEP 1 - Check that the Labour Provider is GLA licensed

All labour providers to the agriculture and food industries must possess a valid GLA Licence as verified at <http://laws.gla.gov.uk/Default.aspx?Menu=Menu&Module=PublicRegister>. The Labour User should register with the Active Check facility on the GLA website at <http://laws.gla.gov.uk/Default.aspx?Menu=Menu&Module=Main/ActiveCheckHome> to be informed of any changes to the status of the Labour Provider.

STEP 2 - Ensure that the rate paid to labour providers covers legal requirements

The rate that labour users pay to labour providers is a matter for negotiation. However, labour users must not offer rates that they know cannot be met without cutting legal corners. Where a seemingly low rate is being paid the labour user must verify with the labour provider how it is meeting its legal obligations and seek confirmation that it is doing so. Labour users must pay rates that allow the labour provider to meet:

1. Actual minimum unavoidable total wage costs required to meet basic legal requirements such as the minimum wage, national insurance, SSP and statutory holiday entitlement.
2. Business overheads, transport costs, management cost
3. Sustainable net margin

Where a labour provider is offering to work for a rate that at first sight does not allow legal requirements to be met with a reasonable allowance for management and profit then it should be asked to verify this. Some labour providers may claim that they are legally able to avoid national insurance contributions or holiday pay because of the status of their workers (e.g. self-employed or based outside the UK). This is simply not correct.

Specific guidance on rates is detailed in a brief entitled “**Minimum Charge Rates**” agreed between the ALP and GLA which can be found at www.labourproviders.org.uk.

STEP 3 – Work in Partnership to set and agree Standards

The Labour Provider and Labour User should work together to agree:

1. The “Contractual Terms and Conditions” is the legal agreement that governs the terms of supply. The ALP makes a model template contract available to its members. The labour provider is required under GLA Licensing Standard 7.4 to send you their terms and conditions before an assignment. Labour users should read these and respond accordingly as it, unless you specifically object to or query them, your agreement is considered to be implied.
2. The “Service Level Agreement”. This is a not a legal agreement but is a procedural document that details the operational processes that will apply in the supply of labour. It outlines the services, processes and standards in relation to the provision of temporary workers by the labour provider to the labour user.

The ALP provides a model “Service Level Agreement” to delegates on its “Complying with the GLA Standards” training workshop. For details visit <http://www.labourproviders.org.uk/ALP-training-courses-workshops.aspx>

STEP 4 - Conduct ongoing Due Diligence

Labour users should conduct regular audits, checks and interviews in partnership with their labour provider. Effective auditing will have the benefit of:

- Improving the legal, ethical and quality standards of agency labour supply.
- Reducing the risk of media exposé of agency worker exploitation.
- Improving partnership between labour user and provider
- Enhancing the likelihood of success during client and GLA audits.

To assist in this process the ALP has produced an “Agency Labour Best Practice & Audit Tool”. Based on the GLA Licensing Standards, Marks & Spencer said “The overall response was extremely favourable with all testers stating that they found the tool easy to use and that the tool would be a considerable asset to their business.” For further details and to order visit http://www.labourproviders.org.uk/alpaudittool_v2.aspx

Matters that should be looked at include:

1. *Payment of tax and national insurance*

That the Labour Provider has deducted appropriate income tax and NI from pay and has paid employer’s and employees’ NI contributions, PAYE and VAT to HMRC.

2. *Workers receive their legal rights*

- All workers are paid correctly, at least the minimum wage and issued with correct payslips, allowable deductions are legitimate and reasonable.
- All workers have been issued with written contracts detailing their entitlement to Statutory Sick Pay and paid holiday.
- All workers are allowed to book and take paid holiday.
- Workers and working hours are recorded, can be linked accurately to pay and do not breach working time regulations.

3. *Workers are legally entitled to work in the UK*

Labour providers have carried out checks and kept photocopies of appropriate original ID document e.g. passport or ID cards.

4. *Health and Safety*

The labour user should provide a safe and legally compliant place to work.

There must be written agreement between labour providers and labour users on responsibility for health and safety training. This should include as a minimum:

- Risks to workers and controls in place
- Responsibility for designing and delivering induction and on the job training
- Record keeping arrangements to verify training undertaken.
- Arrangements for provision of PPE; first aid and action in event of accident.

Labour users should advise of any skills, qualifications and experience needed for roles and labour providers should check and confirm that workers possess these.

MEMBERSHIP OF THE ALP

The ALP is the trade association for labour providers that serve the food industry. The ALP is a centre of expertise and good practice on temporary labour issues within the GLA regulated sectors.

Labour users should ensure that their labour providers are members of the ALP. While the Association does not have its own entry requirements and does not monitor its members, we would encourage membership as the ALP provides members with access to current information, advice and best practice that is otherwise not readily available. A list of members can be found at <http://www.labourproviders.org.uk/alp-members.aspx>.

Labour users (growers, producers, packers etc) can become associates of the ALP which will ensure that they receive information at the same time as labour providers, have access to the members’ part of the ALP website and have access to the advice service that the Association provides.

Further information about the ALP can be found on its website www.labourproviders.org.uk. Labour users should feel free to contact the Director, David Camp, on 01276 509306.