

Managing Agency Labour in the Food Manufacturing Industry

“Agency labour is a producer’s key ethical reputation critical control point. A GLA licence is not enough-suppliers need to implement their own due diligence processes to protect their brand and ethical reputation”.

The **Gangmasters (Licensing) Act 2004** was introduced to safeguard the welfare and interests of workers whilst ensuring Labour Providers operate within the law. Since October 2006 all labour providers to the food manufacturing industry have required a Gangmasters licence. All labour users are legally required to use only GLA-licensed labour providers.

The **Gangmasters Licensing Authority (GLA)** (www.gla.gov.uk) is the regulator responsible for issuing licences to labour providers (gangmasters). These licensed labour providers supply hundreds of thousands of workers to the food industry. The food industry welcomes the flexibility that this workforce affords.

The majority of workers come from countries such as: Romania, Poland, Slovakia, Hungary, Bulgaria, Lithuania, Latvia, India, Pakistan and Portugal.

More than 1,100 gangmasters are now licensed to operate legally in the UK. Labour providers can be UK or overseas based.

All applicants for a GLA licence must be checked by several Government departments and also undertake an Application Inspection before being issued with a licence. Following the GLA licence being issued the labour provider will also be subject to GLA Compliance Inspections, which may be announced or unannounced. Labour users and workers will also be interviewed by the GLA. The labour users’ sites are also visited by the GLA Inspectors.

The Gangmasters Licensing Act comprises ten Standards and approximately sixty sub-sections. The GLA Inspectors will seek to assure themselves that the labour provider understands their obligations and is compliant with the law on accommodation, transport, health and safety, sub-contracting, worker pay, GLA licensing, HMRC payments, worker treatment, hours worked, recruitment and contractual arrangements, identity issues, under age working, legality and rights of workers.

The GLA also expect there to be a high standard of record keeping and for the Principal Authority of the labour providing business to be a ‘fit and proper’ person.

Labour users (ie food manufacturers) are legally required to use only GLA-licensed labour providers. This can be confirmed by checking the GLA Public Register or by completing an ‘active check’ of their labour providers. The GLA recommend the use of their ‘active check’. This ensures that the labour user is sent updates (letter or email) when the circumstances change with their supplying labour providers. This is particularly important if a labour provider loses their licence for whatever reason and does not inform their labour user clients.

The **Association of Labour Providers (ALP)** (www.labourproviders.org.uk) is the specialist trade association for organisations that provide and use temporary, contract and seasonal workers within the food supply industry.

The ALP is a centre of expertise and good practice on temporary labour issues for both labour providers and labour users alike. It acts as a technical one-stop shop providing commentary, statistics, guidance and advice on all legal and other regulatory developments of relevance to labour provision.

The ALP works with the GLA, labour providers, labour users and the major food retailers to raise standards within the industry and to help ensure workers are treated ethically and legally.

The ALP would be delighted to assist SOFHT members with their Gangmasters Licensing Act and labour provider enquiries, (telephone: **01276 509306** or email info@labourproviders.org.uk)

All enquiries will be treated in the strictest of professional confidence.

Since the Gangmasters Licensing Act became law there have been large numbers of labour providers who have fallen foul of the law.

The GLA has uncovered worker exploitation and illegal activity that has led to the revocation of 47 labour provider licences. A further nine labour providers are under investigation following a major operation in Cornwall during February 2008.

The Chairman of the GLA, Paul Whitehouse, repeatedly describes the worst examples of labour provision as 'modern day slavery'!

The GLA have frequently identified the following abuses of temporary workers during enforcement checks:

- Workers housed in overcrowded and unsafe accommodation
- Workers transported in unsafe/unlicensed vehicles
- Workers charged for PPE and the PPE poor quality
- Workers paid less than the National Minimum Wage
- Health and Safety training inadequate

Migrant workers often arrive in the UK with little understanding of UK culture and with little money. During this time, these workers are vulnerable to abuse by some unscrupulous labour providers looking to make a 'quick buck'!

Other labour providers, although not deliberately abusing workers, are non-compliant with the complex law that exists as part of the regulations.

The GLA acknowledge that they have limited resources and labour providers are unlikely to be inspected more than 3-yearly unless intelligence received leads to a multi-agency raid (including the GLA) onto a labour user site.

The GLA have adopted a 'name and shame' policy and fully intend to maximize media publicity to ensure worker exploitation is removed from the food industry.

The ALP also receives a large amount of intelligence from reputable labour provider members which implicates many well known food producers.

The use of temporary labour, particularly migrant labour, has become commonplace within the food industry. However, there have been a large number of ethical and legal compliance breaches identified in the last two years since the introduction of the Gangmasters Licensing Act.

The main reasons for non-compliance are as follows:

- Cost/Competition pressure
- Time pressure
- Greed/Human nature
- Poor Labour User management
- Labour shortage
- Ignorance & Poor practice
- Collusion

A GLA licence is not enough to protect a Company's brand and management credibility.

Although labour users (usually suppliers to the major retailers) can only be prosecuted under the Gangmasters Licensing Act for using non-licensed labour providers, there is considerable potential disruption to production if suppliers do not implement their own due diligence processes to protect their brand and ethical reputation. As with any critical control point positive action is required to minimize risk.

The food industry for many years has audited ingredients and packaging materials. Auditing of the temporary labour supply needs to be an essential part of ensuring temporary workers are protected and treated fairly.

Auditing of labour providers is often completed by organisations such as EFSIS, BRC, SEDEX. However existing audit processes are not preventing the large number of non-compliances being identified by the GLA and media expose. There is clearly a requirement for a bespoke auditing tool to provide a solution for food manufacturers.

The ALP's experience is that retailers and their suppliers are vulnerable to criticism in having weaknesses in their supply chains, regarding the management of their temporary workers.

By incorporating regular checks against the Gangmasters Licensing Standards, labour users can drive up quality standards of agency labour provision. These regular checks need to become part of a labour users' standard supplier assuredness procedure.

Food supply chains are often complex affairs with food manufacturers not necessarily knowing which labour providers are being used in the production of **all** ingredients. The use of sub-contractors to fulfill short term labour requirements can mean a loss of control by the labour user.

Additionally, many farmers and growers, across the UK do not understand the implications of the Gangmasters Licensing Act and the requirement to only use licensed labour providers.

The ALP has for several years been informing and updating its members via its website, regular newsletters and occasional briefs on specific subjects and always welcomes new Associate Members who wish to be kept updated on Gangmasters Licensing Act and related matters.

In Spring 2008, the ALP have commissioned from allianceHR Limited (www.alliancehr.co.uk) an **Agency Labour Compliance Self-Audit Tool** which enables labour providers, labour users and professional auditors to conduct the due diligence necessary to protect businesses' ethical reputations.

This tool has been welcomed by the GLA to help curb the exploitation of workers. The GLA believe the tool could be an extremely useful indicator of labour use compliance.

Labour users usually take responsibility for Health and Safety and Health and Safety training on their sophisticated modern sites but the workforce of 2008 is a complex entity with considerable issues involving a hugely diverse workforce with substantial cultural, religious and language challenges.

For example, The Immigration, Asylum and Nationality Act 2006 has recently strengthened the law on the prevention of illegal migrant working and has introduced a system of civil penalties where the law is being broken. The penalties are potentially swingeing!

Managing Health and Safety effectively and establishing the 'statutory excuse' if found to be using illegal workers are just two complex areas where a labour user needs to work with their labour provider and obtain professional guidance.

The Self-Audit Tool enables non-audit specialists in HR, QA, Technical, Operations etc to easily follow the guidance supplied and to ensure there is compliance by labour providers

against the GLA standards, including Recruitment Law, Employment Law and Health and Safety Regulations.

A number of major food retailers are currently testing the audit tool on sample supplier sites and the feedback has been excellent. Labour users find this software easy to use and believe it enhances the likelihood of success during formal GLA Compliance Inspections.

Labour providers and labour users are sharing audit findings to deliver a safer working environment and better-protected, productive workers.

Businesses are using the tool and the reports it creates to enhance their CSR commitment as well as protecting their brand. The regular updates to the tool help maintain ongoing legal compliance.

SOFHT members will encounter issues resulting from the ever-evolving workforce and workplace. The number of Eastern European workers that have migrated to the UK since 2004 has brought enormous benefits to food manufacturing but the industry also has a moral, legal and ethical duty to maintain the safest possible environment for both the directly employed and temporary workforce.

The ALP, as a professional organisation committed to improving worker conditions, is delighted to support SOFHT.

Jerry Camp
Association of Labour Providers
102 Frimley House
5 The Parade
High Street Frimley
GU16 7JQ

Telephone **01276 509306**
Email info@labourproviders.org.uk