

## *Uncertainty around gangmaster legislation*

*5 January, 2006*

Just four months before the Gangmasters Licensing Authority is scheduled to issue its first licences, the Chairman of the Association of Labour Providers, Mark Boleat, has warned that there is considerable uncertainty about what the legislation will cover, how the licensing scheme will operate and how much licences will cost. He said:

“It is now 18 months since the Gangmasters Licensing Act became law and nine months since the Gangmasters Licensing Authority was established. Within four months labour providers will be able to apply for a licence. In such circumstances it would be normal practice for all the licensing arrangements to be settled and publicised. However, there is still a great deal of uncertainty, which is unsatisfactory for labour providers and labour users. The major areas of uncertainty are in respect of the scope of the licensing regime, the cost of licences and the licence conditions themselves. These issues need to be settled quickly and proper notice given to labour providers of what is expected of them. However, getting everything right is more important than meeting an artificial deadline.”

The general expectation has been that the licensing regime would cover the whole of the shellfish industry, everything that goes on within farms and food packing, with the unsettled issue being whether food processing would also be covered.” Mark Boleat said:

“The ALP does not believe a distinction can be drawn between food packing and processing. Any dividing line is bound to be artificial and will cause anomalies. The overwhelming view of ALP members, and most of the rest of the food supply chain, is that the whole of the food industry should be covered. However, the CBI and REC are taking a different view. It is understood that some parts of government are keen to limit the scope of the legislation as far as possible, as it is out of tune with the government’s regulatory agenda. There is a real danger that initially the Act may cover only what happens within farms. If this does happen many labour providers will rightly feel that they have been conned into having a Temporary Labour Working Group audit, which they were assured would help them obtain a licence without which they would not be able to trade.”

The GLA’s proposals on licence fees have been criticized by labour providers and others. The GLA’s full year operating costs are £2.1 million. The ALP regards these costs as excessive and has argued that they should be reduced by 30%. The GLA’s proposal is that the fee scale should range from £660 to £32,500 a year. The alternative is a flat fee of £2,130. In its response the GLA consultation the ALP pointed out that “the proposed fees are three times higher than those identified in the initial regulatory impact assessment for the legislation. The fact that this can happen with little comment and nothing happening as a result calls into question the validity of the RIA process. The general level of fees is far too high. The fees are disproportionate in relation to what other regulators charge, the profits of labour providers, the regulatory process and the position of other labour providers and competitors to those labour providers subject to the Act.”

Mark Boleat added:

“Those labour providers that have not had a TLWG audit should pay for the full cost of a GLA inspection, about £1,125. The present proposal for a £250 discount for those labour providers that have had a TLWG audit will not achieve the objective of encouraging labour providers to have a TLWG audit.

The fee scale should run from £250 to £2,000. Any shortfall in the running costs of the GLA should be met either by Defra or by the other beneficiaries of the scheme, in particular labour users and their customers.

Unless realistic fees on the lines we have proposed are adopted there is a real danger that many labour providers will choose to move out of the sector or even to continue to operate illegally.

More generally, the government policy of requiring regulators to cover their costs is illogical. It takes no account of the fact that regulation is a public good whose beneficiaries are not primarily the organisations being regulated. All too often regulators are being put in the position of having to trade off effectiveness against viability. The GLA needs to be a highly effective regulator. It cannot achieve this if it is obliged to cover its costs.”

On licence conditions the ALP argues that the GLA proposals fail to adopt the targeted and proportionate approach that is now standard government policy. As a result labour providers will be expected to meet much higher standards, particularly of record keeping, than other businesses.

Mark Boleat said:

“The licence conditions have adopted the kitchen sink approach and if adopted would mean that labour providers to the agriculture and fresh produce industry alone would be subject to a regime of inspection and enforcement at a totally different level from comparable businesses in the UK. This cannot be justified. It is appropriate to narrow down the licence standards to those where there is some evidence of problems in the sector being regulated and not to attempt to cover everything.”

The ALP believes that if the licensing scheme is to come into operation on 1 April as planned then these three issues need to be settled satisfactorily by the end of January, with full details of the arrangements being published early in February, so as to give labour providers ample notice of what they will have to do in order to obtain a licence. If this timetable cannot be met then Mark Boleat believes that it would be preferable to delay the timing of the introduction of licences. He went on: “this need not delay the timing of the introduction of the offence of operating without a licence which currently is scheduled for September. It would be feasible to delay the introduction of licensing until June and still meet this deadline.”

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Notes:

1. The ALP was founded by 18 labour providers at a meeting in Cambridge in January 2004. The Association now has 135 members. Compliance with the Temporary Labour Group Code of Practice for Labour Providers is a condition of membership
2. The Association is recognised as the trade association for labour providers that serve the agriculture and fresh produce trade. It has nominated two representatives to the Gangmasters Licensing Authority, its Chairman sits on the Home Office Illegal Working Stakeholder Group, and it is a co-sponsor of the Code of Practice for Labour Providers.
3. The Association has an independent Executive Chairman – Mark Boleat, the former Director General of the Building Societies Association, the Council of Mortgage Lenders and the Association of British Insurers.
4. The Association operates as a virtual organisation with no fixed premises. Information is provided to members and others through a website [www.labourproviders.org.uk](http://www.labourproviders.org.uk).
5. The Association has issued a number of policy papers and responses to consultation documents all of which are on its website.