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Association of Labour Providers

Minutes of the Meeting of the Executive Committee on Tuesday 16 February 2010, at 11:00 am, at Lockton House, 6 Bevis Marks, London, EC3A 7AF.

Executive Committee Present

Mark Boleat (Chairman)
David Camp (Director)
Stephen Brewis (Blue Arrow)
Jimmy Davies (HOPS)
Bernard Gaughan (Total Labour Solutions)
Andy Haselip (Pro-Force Ltd)
Andy Hogarth (Staffline)
Lee Rand (Teamwork Resource)
Mark Rye (DKM)
Ken Steers (Cordant)
Mike Cooper (Best Connection)
Joanne Young (Right4Staff)

Also Attending

Jules Alexander (ALP)
Jerry Camp (ALP)
Holly Jones (RE Personnel)
Andy Sweeney (Best Connection)

1. Apologies for absence

Richard East (RE Personnel)

2. Membership of the Committee

There is one vacant position on the Executive Committee.

3. Minutes of the meeting held on 29 September 2009 (Paper 2010/01)

The minutes of the meeting held on 15 December 2009 were agreed as a correct record.

4. Gangmaster Licensing Authority Issues (Paper 2010/02)

Effectiveness of the GLA

The Committee noted the 30% increase in GLA headcount and the consequent expectation of additional GLA activity.

Recent refusal and revocation activity indicates a greater GLA focus on more serious non-compliances with greater use of the "fit and proper" licensing standards. However one Committee member did highlight their own case where ALCs had been applied which appeared to be in respect of minor administrative issues where workers suffered no detriment.

The Committee requested that the Association raise the matter of GLA communication with labour users who had registered for Active Checks, particularly:

- That labour users who had registered for Active Checks had been informed of GLA outcomes by email prior to the licence holder themselves.
- That the content of the communication was capable of misinterpretation, especially in situations where no non-compliances were found.
- That the GLA are informing labour users prior to the point where a labour provider's right to appeal has expired.

The Association will raise this at GLA Labour Provider Liaison Group meeting on 19th February 2010.

Travel Schemes and Umbrella Companies

The Committee's attention was drawn to the HM Treasury Consultation, published on 11th February, at http://www.hm-treasury.gov.uk/consult_minimumwage_expenses.htm, which seeks views on "the problem of the potentially exploitative arrangements which are implemented for some temporary workers paid at or near the National Minimum Wage (NMW). This consultation aims to develop the best solution to this problem and the Government welcomes feedback on the proposed changes to the NMW Regulations." The closing date for responses is 6 May 2010

The Gangmasters Licensing Authority has confirmed that it will be enforcing the Licensing Standards in relation to travel and subsistence schemes as laid out in GLA Brief 1 issued on 25 November 2009 entitled "[Travel Schemes and Umbrella Companies](#)" with joint GLA/HMRC inspections commencing as announced from 17 February 2010. The GLA regards the section on NMW within this Brief to be in accordance with and to be applied as per paragraphs 3.7 to 3.20 of the HM Treasury Consultation.

The Association will produce a straightforward guide relating to the current interpretation of the NMW regulations as contained in the HM Treasury consultation.

The ALP will seek member views on the HM Treasury Consultation prior to submitting a response. Where widely held views are expressed the Association will represent the different viewpoints.

GLA and Supermarket Protocol

The Committee noted the Association's response to the second consultation on the protocol and general satisfaction with this revised draft.

The Committee supported the Association's substantive point in the response that the GLA avoid a position in which a supplier or supermarket has turned a blind eye to practices in its supply chain yet is shared the credit when the GLA takes action.

GLA Labour Provider Liaison Group

The next meeting of the group is to be held on 19th February 2010. The Committee supported the agenda items already submitted by the Association as follows:

1. Request for GLA Query Logging System
2. GLA Supermarket Protocol update
3. Agency Workers Directive - GLA position on enforcement.
4. GLA policy on provision of close-out letters following an inspection where no non-compliances are found.

The Committee also asked for the point regarding GLA communication with labour users who had registered for Active Checks to be raised and to press the GLA for an update on its policy with regard to the licensing of overseas based licence holders.

5. Issues relevant to members' business (Paper 2010/03)

National Minimum Wage

The Chairman outlined his discussion with a senior official of the Low Pay Commission regarding a more logical treatment of deductions from pay, particularly for transport costs, in respect of meeting minimum wage requirements.

The official suggested that at present there was little point in raising the issue with BIS, partly influenced by the impending general election and given the natural hostility of the unions to this.

The Association will study the Low Pay Commission's report when it is published in March and consider how best to continue to pursue the matter with the new government after the election.

Inquiry into the treatment of workers in the meat processing industry

The Equality and Human Rights Commission (EHRC) formal inquiry into the employment and recruitment practices of atypical workers in meat processing sectors in England and Wales is scheduled for publication on March 16th 2010.

The Association has been in dialogue and correspondence with the EHRC team throughout the process to put forward the position of labour providers and will be present at the launch and involved fully in the round table discussions that follow.

Accession States Worker Registration Scheme

The working assumption is that the Government will take no action to end the WRS scheme prior to its natural end in 2011.

The Chairman advised that the Government was committed to a further review of the WRS towards the end of 2009 but nothing has been heard about such a review. The Chairman has raised this with the Home Office and is awaiting a response. The Association will seek an input into any review and will continue to seek the earliest possible abolition of the scheme. The Conservative Party has been briefed and has sounded sympathetic.

Agency Workers Directive

The [Agency Worker Regulations 2010](#) were laid before Parliament on 21 January 2010.

The Committee welcomed the inclusion of a session on the practical aspects of the Agency Workers Regulations by Brabners Chaffe Street at the 2010 Roadshows and noted the Association's proposal to develop a formal workshop for labour providers and labour users geared to the food and agricultural industry.

The Gangmasters Licensing Authority position on enforcing the Agency Workers Regulations is being raised formally at the Labour Provider Liaison Group meeting on 19th February 2010 though the GLA has already advised that it will "enforce what it can".

Labour User Pressure

The Association requested feedback from the Committee on the extent that pressure is applied by labour users on labour providers to avoid legal requirements with regard to workers.

The Committee believed that this was a matter that affected smaller labour providers who were in a weaker negotiation position with their clients.

The issue of compliance with ETI Base Code 6 with regard to working hours and overtime payments was raised and particularly the expectation by labour users that labour providers will fund the introduction of enhanced overtime rates.

ALP 2010 Roadshows

The Committee confirmed their support for the Association's proposals for the content of the ALP Roadshows in April 2010.

It was agreed that the potential for sponsorship should be considered as at present the Association was funding the events.

The Committee reconfirmed their support that ALP members and labour users only be invited, with a small charge for non-member labour users to attend.

ALP Accredited Status

At the December 2009 Executive Committee meeting it was agreed that a small working group of labour providers meet to consider the merits, principles and structure of developing an “ALP Accredited Status” model with the following Principles:

- Accreditation provided based on an audit against the GLA licensing standards.
- Reported on Sedex to be shared by labour providers with clients and retailers as desired.
- Conducted by social compliance auditors in accordance with SMETA principles.
- Accredited status can be used by labour providers in marketing material.

A discussion paper on this matter was issued to the Executive Committee and Blue Arrow has offered the use of its Luton office for the initial meeting. Committee members interested in participating were invited to put themselves forward and the ALP Director will organise a date and time.

Groceries Supply Code of Practice

The Committee noted the Government’s announcement of its intention to implement a Supermarket Ombudsman to oversee compliance by the 10 biggest grocery retailers to the Groceries Supply Code of Practice (GSCOP).

The Association will review the 12-week consultation, www.berr.gov.uk/files/file5442_5.pdf, consider the implications for labour providers and respond to the consultation appropriately.

6. Policy Priorities for 2010 (Paper 2009/04)

The Committee noted progress against the 2010 policy priorities as follows:

Policy Issue - GLA related	
Issue 1: Support for the remit of the GLA to be extended to other sectors.	See Paper 2009/15. The Association will be proposing joint activity with other bodies to reach a common consensus on the future remit of the GLA.
Issue 2: Support for the requirement for automatic inspections to accompany licence applications.	Though contrary to Hampton Principles this has ALP Executive Committee approval and wide GLA Board support.
Issue 3: Support for HMRC and GLA activity to ensure that Travel Schemes operated are fully compliant with legislation	Support for content of GLA Brief 1. Awaiting joint inspections by GLA and HMRC to commence from 17 th February 2010.
Issue 4: Support for a strong GLA enforcement approach that focuses on: Cases of worker exploitation; Unlicensed gangmasters and overseas agencies that charge workers; Tax evasion.	Evidence that GLA focus has moved from tackling minor non-compliances towards cases of worker exploitation and tax evasion. No real sign that GLA is effectively tackling unlicensed gangmasters or overseas agencies that charge workers.
Issue 5: To press the GLA to develop a clear public statement of licensing policy which sets out how decisions are made.	Awaiting the GLA Business Plan to be put forward at the April GLA Board Meeting.
Issue 6: Support for the GLA enforcing the Agency Worker Regulations.	Proposed for discussion at the February Labour Provider Liaison Group.
Issue 7: To restrict the GLA “Best Practice Guide for Labour Users” to legal compliance and not goldplating.	Robust responses from ALP has resulted in removal of most goldplating. Latest version awaited from GLA for comment.
Issue 8: Opposition to GLA inspectors assessing workers’ employment status.	Subject of much correspondence and discussion since 2006. ALP and REC working in partnership on this. GLA to prepare Brief on this for discussion at the February Labour Provider Liaison Group.

Policy Issue - Other	
Issue 1: Support for abolishing the Agricultural Wages Order (AWO) and Agricultural Minimum Wage (AMW).	Appeal case withdrawn. Legal advice was that this was the most effective approach. Issue raised with Conservative shadow minister who was sympathetic.
Issue 2: Amending the accommodation offset arrangements.	Being formally reviewed by Low Pay Commission.
Issue 3: Amending the ruling that deductions from wages with the agreement of the worker should not be regarded as deductions for the purpose of meeting NMW rules.	Response made to Low Pay Commission. Some success with legal challenges and direct representation. Little willingness from HMRC / BIS to engage on this.
Issue 4: Abolition of the Worker Registration Scheme (WRS).	Unsuccessful but the Association is pressing for the earliest possible end to the scheme.
Issue 5: To support the continuation of a SAWS type scheme.	
Issue 6: Full access to work rights for Romanian and Bulgarian Nationals.	No action needed at present. Chairman to consider how to address with new government.
Issue 7: Seek to achieve a common consensus across the sector on ethical auditing standards	Meetings held with many retailers. Tesco are aware of many of the issues. Discussion of ALP Accredited Status.
Issue 8: Labour provision within GLA regulated sector to be perceived as a model for industrial recruitment.	Meetings held with Business & Migration Initiative; Business in the Community; Institute for Human Rights and Business; International Business Leaders forum. Planned meeting with ETI and Institute of Community Cohesion. EHRC Report likely to conclude there is some way to go.

7. ALP Financial Position (2010/05)

The Committee noted the budget and estimated outturn for 2009, including the allocation of a surplus for the first time in the life of the Association, and the agreed budget and year to date figures for 2010.

The Committee agreed to recommend to the AGM the reappointment of Turner & Co as auditors and that the final audited accounts be approved by email prior to the next meeting.

The Association Chairman confirmed that as expected the GLA will not be able to make a financial contribution to the ALP to help reduce the cost of 2010 subscriptions to new and small labour providers.

8. Constitutional matters and the AGM (2010/06)

Mark Boleat was reappointed as Chairman until the first Executive Committee meeting of 2011.

It was agreed that the AGM be held prior to the Executive Committee meeting on 11th May. The Royal Agricultural Society venue near Coventry was proposed and agreed. The Chairman will invite Paul Whitehouse, GLA Chairman, and an NFU representative to speak.

It was agreed to incorporate the annual report into the May ALP Directory & Handbook.

Three members whose three year terms have come to an end, Jimmy Davies (HOPS), Ken Steers (Cordant) and Andy Hogarth (Staffline) submitted their names for re-election.

There is one position available on the Executive Committee for which an appropriate representative, preferably from a smaller member will be sought.

It was agreed that it was in the best interests of the Association to delete from paragraph 17 of the constitution the sentence "No person may hold the office of Chairman for more than two consecutive years." A resolution to this effect will be put to the AGM.

Membership (2010/07)

The Committee noted positively that 2010 subscriptions are arriving at an improved rate to 2009.

The membership objective for 2010 is 300 which will require:

- Additional member services that will encourage membership.
- Attracting labour user associate members.
- Marketing campaigns.

The Committee were introduced to Jules Alexander who will assist the Association in achieving this goal.

Presentation from Lockton Insurance Services

Nigel Meyer and Jeremy Goodacre from Lockton Insurance Services introduced the new ALP Motor Insurance Scheme which will be launched shortly with an ALP Brief and Free Insurance Helpline for members.

Dates of 2010 meetings - May 11th 2010 (includes Annual Meeting), September 14th 2010, December 6th 2010