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## Association of Labour Providers

**Minutes of the Meeting of the Executive Committee on Tuesday 11 May 2010, at 11:00 am, at Royal Agricultural Society, Stoneleigh Park, Warwickshire, CV8 2LZ.**

### Executive Committee Present

Mark Boleat (Chairman)  
David Camp (Director)  
Mike Cooper (Best Connection)  
Bernard Gaughan (Total Labour Solutions)  
Andy Haselip (Pro-Force Ltd)  
Andy Hogarth (Staffline)  
Ken Steers (Cordant)  
Joanne Young (Right4Staff)

### Also Attending

26 ALP Member representatives (list available)  
David Coakley (HSE)  
Ian Livsey (GLA)  
James Potter (NFU)  
Will Stephens (Tesco)

### 1. Apologies for absence

Richard East (RE Personnel)  
Stephen Brewis (Blue Arrow)  
Jimmy Davies (HOPS)  
Lee Rand (Teamwork Resource)  
Mark Rye (DKM)

### 2. Membership of the Committee

There is one vacant position on the Executive Committee.

### 3. Minutes of the meeting held on 16 February 2010 (Paper 2010/08)

The minutes of the meeting held on 16 February 2010 were agreed as a correct record.

### 4. Gangmaster Licensing Authority Issues (Paper 2010/09)

#### GLA Licensing Decisions

The Committee noted and supported the ongoing focus of the GLA on enforcement rather than compliance activity and the GLA Chief Executive's commitment to focus on catching crooks and generating a level playing field.

The Committee agreed that the Association should address directly with the GLA the apparent rise in disproportionate licensing decisions and particularly the use of the "fit and proper" bar.

## **Effectiveness of the GLA**

The Committee supported the GLA's development of a Business Plan with results measured in "outcomes" as well as "outputs" i.e. measurement of reduction in risk to workers; financial or other recompense gained by workers; estimate of tax recovered.

The Committee were generally satisfied with the final version of the Supermarkets and Suppliers' Protocol.

## **Transport Charges**

The Committee noted the April 2010 GLA Board paper on Transport Charges and Deductions and confirmed that labour providers do not make "a substantial profit" from the provision of transport; that many operate transport at a loss or at best break even and that where possible labour providers have withdrawn from providing transport.

The Committee supported the Association's position of offering its support to the GLA in preparing guidance to workers on this matter but opposition to any proposal of amendment to NMW regulations to control charges in a similar manner to deductions.

## **Travel Schemes and Umbrella Companies**

The Committee is supportive of HMRC and GLA activity to ensure that any schemes operated are fully compliant with legislation. However this activity will have been impacted by the HM Treasury consultation "National Minimum Wage workers: Travel and Subsistence Expenses Schemes" which aims to address the "potentially exploitative arrangements which are implemented for some temporary workers paid at or near the National Minimum Wage (NMW)."

The Association responded in full to the Consultation which closed on 6<sup>th</sup> May. Committee members' views differed strongly depending on whether or not they operate such schemes. Those against the schemes felt the Association should have been more condemnatory in its response.

The overriding message of the Association response was for the Government to remove the current market distortion that HMRC has allowed to be created. It highlighted that the Government proposal was unworkable; that the claims of worker exploitation were somewhat overstated but that urgent action was required to establish a level playing field.

## **GLA Labour Provider Liaison Group**

The Committee noted that positive progress had been made with the GLA on its position on checking employment status. The GLA has produced a paper, on which it is currently consulting, that is more in line with the correct legal position.

The Committee noted the outstanding key actions upon the GLA and agreed the agenda items that the Association proposed to raise at the next meeting on 26<sup>th</sup> May.

## **5. Issues relevant to members' business (Paper 2010/10)**

### **Minimum Charge Rate Guidance**

In 2007 the Association was successful in establishing common agreed Minimum Charge Rate Guidance, exclusive of labour provider profit. This is posted on both the ALP and GLA websites and has become well known throughout the food supply chain.

This guidance is indicative, does not reflect a pricing model where a travel and subsistence scheme applies. It is understood that it is a commercial decision for labour providers to accept charge rates below the guidance figures, however it serves as a useful benchmark and guide.

The general consensus of the Committee with regard to the 2010 Minimum Charge Rate Guidance was:

1. Remove the word "Minimum" from the heading and throughout the guidance.
2. To retain a figure for overhead/service costs in the overall charge - this was felt to keep the charge rate at a higher base level and prevent a lower figure becoming the norm.
3. Not to recommend a total charge rate that includes labour provider profit.
4. To keep the figure for overhead/service costs as a rounded figure to avoid being too precise on an indicative figure. To retain the 2009 figure of 50p for this.
5. To provide explanation on the variables that exist in contracts.

The ALP Director will draft the 2010 Minimum Charge Rate Guidance once the 2010 Agricultural Minimum Wage is agreed and circulate the draft document to the Executive Committee for comment.

### **Inquiry into the treatment of workers in the meat processing industry**

The Committee supported the Association taking a full role in the cross stakeholder working group formed to consider the recommendations of the Equality and Human Rights Commission report of its inquiry into recruitment and employment in the meat and poultry processing sector in England and Wales. The taskforce will examine some significant matters such as pay parity and the use of "permatemps" that will directly impact upon labour providers business.

The Association is seeking appropriate labour provider representatives to take part in the task force meetings.

### **Agency Workers Regulations 2010**

The Committee noted the overview of the Regulations provided to members at the 2010 Roadshows and the Association's plans for Paul Chamberlain of Brabners Chaffe Street to run workshops on "The Agency Workers' Regulations 2010 - Labour Providers and Labour Users Working in Partnership".

The Committee noted that the GLA has stated that any enforcement of the Agency Workers Regulations 2010 that they undertake will be considered as part of the next GLA Licensing Standards review due for implementation in April 2012.

### **ALP Roadshow 2010**

The Committee noted the attendance of over 230 labour providers and users at the 6 free roadshows held for members in April.

### **Labour Provider Auditing and Accreditation**

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 "Accredited Status" auditing model for labour providers.

The outcome of this meeting will be considered further by the Committee at the next meeting.

### **Groceries Supply Code of Practice**

The Committee noted the response of the Association to the BIS consultation on the monitoring body for the Groceries Supply Code of Practice and that it is not considered to have significant implications for labour providers.

### **Accession States Worker Registration Scheme**

The Committee noted that there had been as yet no further review of the WRS, that the working assumption should be that the Government will take no action to end the scheme prior to its natural end in 2011 and that the Association will continue to press for a decision.

## 6. Policy Priorities for 2010 (Paper 2009/11)

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

<b>Policy Issue - GLA related</b>	
<b>Issue 1:</b> 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.
<b>Issue 2:</b> 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.
<b>Issue 3:</b> Support for HMRC and GLA activity to ensure that Travel Schemes operated are fully compliant with legislation	Support for content of GLA Brief 3. Awaiting joint inspections by GLA and HMRC which although due to commence from 17 <sup>th</sup> February 2010 there has been no sign of yet.
<b>Issue 4:</b> 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.
<b>Issue 5:</b> To press the GLA to develop a clear public statement of licensing policy which sets out how decisions are made.	The GLA has now issued its "Licensing Decision Policy" on which the Association will respond.
<b>Issue 6:</b> Support for the GLA enforcing the Agency Worker Regulations.	To be considered as part of the April 2012 GLA Licensing Standards review.
<b>Issue 7:</b> 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. Published version is quite reasonable.
<b>Issue 8:</b> Opposition to GLA inspectors assessing workers' employment status.	Subject of much correspondence and discussion since 2006. GLA position in its draft position paper now more soundly based in law. Discussions ongoing.
<b>Policy Issue - Other</b>	
<b>Issue 1:</b> 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.
<b>Issue 2:</b> Amending the accommodation offset arrangements.	Low Pay Commission has not amended its position.
<b>Issue 3:</b> 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.	Little willingness from HMRC / BIS to engage on this. Some success with legal challenges and direct representation.
<b>Issue 4:</b> Abolition of the Worker Registration Scheme (WRS).	Unsuccessful but the Association is pressing for the earliest possible end to the scheme.
<b>Issue 5:</b> To support the continuation of a SAWS type scheme.	SAWS has been extended a further year.
<b>Issue 6:</b> Full access to work rights for Romanian and Bulgarian Nationals.	No action needed at present. Chairman to consider how to address with new government.
<b>Issue 7:</b> Seek to achieve a common consensus across the sector on ethical auditing standards	Meetings held with many retailers. Issue to be addressed through EHRC taskforce. Discussions ongoing with Sedex.
<b>Issue 8:</b> Labour provision within GLA regulated sector to be perceived as a model for industrial recruitment.	EHRC Report has concluded there is some way to go despite the significant progress made. Meetings held with Business & Migration Initiative; Business in the Community; Institute for Human Rights and Business; International Business Leaders forum, Institute of Community Cohesion.

## 7. ALP Financial Position (2010/12)

The Committee noted the progress to date against budget.

## **8. Membership (2010/13)**

The Committee noted positively that the Association currently has 250 paid up members compared to 212 at the same time in 2009, 164 at the same time in 2008 and 116 in 2007.

The membership objective for 2010 is 300 which will require:

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

**Dates of 2010 meetings - September 14<sup>th</sup> 2010, December 6<sup>th</sup> 2010**