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## Association of Labour Providers

**Minutes of the Meeting of the Executive Committee on 14 September 2010 at the Association of Charitable Foundations, 14 Upper Woburn Street, London WC1H 0AE.**

### **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)  
Joanne Young (Right4Staff)

### **Also Attending**

Kevin Epton (Epton Employment Services Ltd)  
Nick Gregory Jones (The Staffing Group)  
Jeremy McGrail (The Staffing Group)  
Richard Morrissey (Quattro Recruitment Ltd)  
Suzanne Whiley (Teamwork LLC Ltd)  
Graham Davey (NEST)

### **1. Apologies for absence**

Richard East (RE Personnel)  
Andy Hogarth (Staffline)  
Lee Rand (Teamwork Resource)  
Ken Steers (Cordant)

### **2. Membership of the Committee**

There are two vacant positions on the Executive Committee.

### **3. Minutes of the meeting held on 11 May 2010 (Paper 2010/13)**

The minutes of the meeting held on 11 May 2010 were agreed as a correct record.

### **4. Gangmaster Licensing Authority Issues (Paper 2010/14)**

#### **Effectiveness of the GLA**

The Committee noted that the Association had strongly put forward its arguments on the proportionality of licence decision to the GLA and that the GLA had taken a constructive approach in response to this. Recent GLA decisions seen by the Association seem to be more proportionate and well reasoned, particularly with regard to the use of the “fit and proper” bar.

The Committee confirmed its support for the GLA strategy to direct its resource predominantly on enforcement rather than compliance activity. As such, it noted that the rate of such GLA activity had fallen to an average of 11 compliance inspections per month.

Committee members highlighted the increasing prevalence of unlicensed entrepreneurial and sometimes organised activity, predominantly by migrant workers themselves, to arrange accommodation, transport to work, work finding and other fee paying services.

## **GLA Labour Provider Liaison Group**

The Committee noted that due to GLA resource constraints, progress on Policy matters has been slow, outstanding policy matters being:

1. GLA Position on Checking Employment Status
2. GLA Position on A2 Nationals (attached)
3. GLA Licensing Guidance for Overseas Labour Providers (attached)
4. Scope of the GLA (To cover Processing & Packaging “grey areas” / Explanation of Exclusion Regs / Agricultural Contractors).
5. GLA Position on Time to Pay arrangements
6. Transfer of Licences in Legitimate Business circumstances/Phoenixing
7. How Licensing Applies to: Managed Services and Outsourced Recruitment:
8. How Licensing Applies to: Tax and NI Liabilities for Overseas Businesses
9. GLA Guidance on Transport

### **5. Future of the GLA (Paper 2010/15)**

The Committee supported the position in the Association’s draft paper (2010/15) entitled ‘Future of the Gangmasters Licensing Authority and Employment Agency Standards Inspectorate’.

Once this paper is finalised it will be issued to Committee members to discuss with their management boards to provide their individual company support for the position.

The Association will continue to work with other representational bodies to promote this position.

### **6. Issues relevant to members’ business (Paper 2010/16)**

#### **Abolition of Agricultural Wages Board**

The ALP has campaigned for the abolition of the agricultural minimum wage for some years on the grounds that it was an unnecessary piece of bureaucracy that caused considerable practical difficulties for agricultural workers and their employers.

The Committee roundly supported Defra’s plans to begin work to abolish the Agricultural Wages Board in England and Wales and foresaw no particular practical difficulties arising from the abolition.

The Association will continue to support the abolition of the Agricultural Wages Boards in Scotland and Northern Ireland.

#### **Travel Schemes and Umbrella Companies**

On 27th July the Government published its response to the consultation entitled “National Minimum Wage workers: Travel and Subsistence Expenses Schemes” proposing to amend the National Minimum Wage Regulations 1999 from 1st January 2011 so that workers will be required to be paid the payments under the travel and subsistence schemes in addition to the NMW.

Members’ position on this will vary depending on how they view such schemes. The proposal should, however, allow a level playing field in this area for labour providers of all sizes and resources.

The Association will continue to monitor the increasing number of GLA licensed umbrella companies who are promoting methods through which tax relief on travel and subsistence expenses can legitimately be paid to NMW workers.

#### **Charge Rate Guidance**

The Committee noted that Tesco in its updated “Tesco Food Manufacturing Standard” on Employment Agencies has made it a base requirement that “in the UK, the site must pay at least the minimum charge rate, as listed on [www.gla.gov.uk](http://www.gla.gov.uk) (under “Information for Labour Providers”).

## **Agency Workers Regulations 2010**

The Committee was advised that the Government review of the Agency Worker Regulations 2010 was likely to be limited rather than a reopening of the whole debate. BIS has confirmed that it welcomes practical ideas for limiting the cost and bureaucracy of the Regulations as well as contributions on matters required to be covered in the guidance.

The Association will prepare a paper to BIS on this matter and put this draft to the Committee prior to formal submission.

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

Following the Equality and Human Rights Commission (EHRC) inquiry report, a cross stakeholder "Meat and Poultry Processing Task Force", chaired by the Ethical Trading Initiative (ETI) and facilitated by the EHRC, has been formed to address the issues highlighted, specifically:

- Parity between temporary and permanent workers
- Temporary to permanent employment status
- Managing a migrant workforce
- Production of tools to create practical and sustainable solutions.

The Association is strongly representing the views of labour providers at these meetings.

## **Accession States Worker Registration Scheme**

On 5th July 2010 the Government confirmed that the worker registration scheme must cease to apply by 30 April 2011.

The Committee noted that ALP Chairman had written to the Minister of Immigration, Damian Green, offering his services to work with officials to achieve an orderly ending of the scheme.

## **Labour Provider Auditing and Accreditation**

The Committee noted the paper detailing the outcome of the working group of labour providers that had considered the merits, principles and structure of an "Accredited Status" auditing model for labour providers.

The Committee felt that at the current time it was not appropriate to add another level of auditing but that the situation regarding retailer and SEDEX audit requirements continue to be monitored to determine whether at some future stage this position merits further review.

## **Seasonal Agricultural Workers Scheme (SAWS)**

The continuation of SAWS is linked to the government's A2 policy. It is expected that the government will review the policy on A2 nationals towards the end of 2011. In principle the restrictions can, at that point, be extended to the end of 2013.

The Committee agreed that it should be open to all labour providers to apply for a SAWS licence. Further discussion at future Committee meetings will consider the Association's position on support for or otherwise of a post SAWS type scheme.

## **Transport Charges**

The Association continues to press the case for a more logical treatment of deductions from pay, though at present BIS, HMRC and the Low Pay Commission seem unwilling to look at such issues.

The Association will consider how best to continue to pursue this matter.

## 7. Policy Priorities for 2010 (Paper 2010/17)

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 2010/15. 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 evidence of joint inspections by GLA and HMRC due to commence from 17 <sup>th</sup> February 2010 .
<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 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).	Abolition announced in England and Wales.
<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.

## **8. ALP Financial Position (2010/18)**

The Committee noted the progress to date against budget. When full year subscriptions and costs are taken into account it is envisaged that there will be a small surplus at year end.

The Committee agreed that ALP membership subscription scales for 2011 remain unchanged.

## **9. ALP - proposed management arrangements for 2011(2010/19)**

The Committee agreed that ALP Management and Fee arrangements for 2011 continue as those that applied in 2010.

## **10. Membership (2010/20)**

The Committee noted positively that the Association currently has 268 paid up members compared to 246 at the same time in 2009, 204 in 2008 and 146 in 2007.

However membership growth appears to be plateauing and new marketing activity will need to be undertaken in 2011 to encourage new membership.

The Executive Committee supported the Association taking a higher media profile in 2011. The Association will seek to appoint professional PR support to achieve this.

## **11. Presentation by NEST**

Graham Davey of NEST (National Employment Savings Trust) Corporation presented on the forthcoming workplace pension auto-enrolment scheme which is designed to meet the needs of low-to-moderate earners and their employers.

A representative of NEST will present again at the December Executive Committee meeting following the completion of the Government current review on workplace pensions.

## **12. Dates of 2010 meetings - December 6th 2010 6th December; 15th February 2011; 11th May 2011; 13th September 2011; 6th December 2011**