



UK Race and Europe Network

Department for Business, Innovation and Skills and Home Office Consultation – 'Tackling exploitation in the labour market'

The UK Race and Europe Network (UKREN) response to the consultation concurs with that put forward by the Non Governmental Organisation Focus on Labour Exploitation (FLEX). UKREN's 160 member organisations are based throughout the UK and work with many different ethnic groups to promote race equality. Licensing and monitoring gangmasters is viewed as an important way for government to tackle exploitation in the labour market against ethnic and migrant people. Labour exploitation of ethnic minority and migrant groups often occurs in small labour infringements and not just the large 'organised labour market exploitation' that this consultation appears to focus on. It is important that all infringements are tackled. Like FLEX we have some concerns about what is being proposed in this consultation. We are also concerned about the apparent linking of immigration and 'organised labour exploitation' in the consultation. We agree to the following points.

Analysis by FLEX

This consultation proposes an expanded role for key UK labour inspection agencies, proposing extra powers of criminal investigation for the Gangmasters Licensing Authority (GLA) and for labour inspection priorities to alter according to an annual strategy proposed by a new Director of Labour Market Enforcement. The consultation operates on the assumption that there is 'general labour market compliance' and the key problem faced in the UK is one of 'organised labour market exploitation'. The consultation proposes a shift away from licensing towards voluntary schemes.

The problems posed by this approach include:

- There is no clear definition of terms included in the consultation, including 'organised labour market exploitation'; and 'serious exploitation'; 'labour market exploitation'. Nor is there an international legal definition of exploitation, making it difficult for consultation respondents to engage with such terms in a meaningful way.
- Labour inspection agencies have seen steep declines in budgets since the 2010 Spending Review – including more than 20% cut to the GLA - and look set for further cuts in this Spending Review;
- Criminal investigations absorb huge resources and could distract from core licensing and monitoring functions;
- All threats to the GLA licensing and license monitoring functions should be resisted, the upholding of labour standards through this model has been recognised as global best practice by the ILO and the Council of Europe and should be continued in order to ensure workers are protected from labour abuses and exploitation is prevented.
- Voluntary accreditation schemes are helpful when supported by robust State regulation and enforcement, but the UK has one of the weakest labour inspectorates in Europe and is proposing weakening it further through this consultation;

- Shifting priorities for labour inspection agencies according to an annual strategy produced by a Director of Labour Market Enforcement risks threatening the years of expertise agencies like the GLA have built up in their specialist areas of work.

In relation to specific consultation questions FLEX makes the following observations:

Question 1: Do you agree that more needs to be done to tackle organised labour market exploitation? [FLEX response – YES]

No clear legal definition of ‘organised labour market exploitation’ has been provided. Increased activity will require increases in resources, yet this consultation states that more should be done with the same resources.

Question 2: Do you agree with the following statement: “Establishing a new Director for Labour Market Enforcement to set the strategic direction of the enforcement bodies will be effective in tackling worker exploitation”? [FLEX response – NO]

While greater coordination between labour inspection agencies is welcomed, FLEX does not support the diversion of labour inspection agencies from existing remits in the fulfilment of a strategic direction set by the Director of Labour Market Exploitation. Diverting resources between agencies on an annual basis is destabilising and it threatens to undermine established priorities and governance structures.

Question 3: What other factors should we consider in developing the new Director role?

The Director of Labour Market Enforcement should have the protection of vulnerable workers and prevention of exploitation at the core of their work, and should not have the power to set the strategic directions or budgets of existing labour inspection agencies.

Question 4: Do you agree that a new offence of aggravated labour law breach is needed to tackle exploitation of workers? [FLEX response – NO]

The proposed offence is confusing and risks undermining efforts to prosecute modern slavery offences. Any new offence must be combined with strengthened monitoring and inspection of labour standards, and the investigation and prosecution of this new offence should not be permitted to change or divert resources from these essential functions.

Question 9: Do you agree on the need for powers to share data and intelligence across the enforcement bodies and with other organisations? [FLEX response – NOT SURE]

Information sharing on patterns and trends in labour abuses would be beneficial, but information sharing for the purpose of assisting immigration enforcement would be counter-productive.

Question 10: Do you agree with the proposal to expand the role of the Authority or should we retain the current model? [FLEX response – NO retain current model]

While FLEX and others have advocated an expanded remit for the GLA, all experts have been clear that the GLA should under no circumstances have its remit expanded without a matched increase in resources. In the Consultation document it is clearly stated that all amendments to the role of the labour inspection agencies will take place “within the total envelope of available funding”. Therefore FLEX views the proposal to expand the role of the GLA to be a watering down of its functions, requiring it do more with less.

Question 11: Do you agree that the mission of the new Authority should be to prevent, detect and investigate worker exploitation, in support of the Director’s annual plan? [FLEX response – NO]

The GLA should retain its current mission to ‘work in partnership to protect vulnerable and exploited workers’, and should set priorities based on its own extensive knowledge of labour conditions in the industries in which it operates.

Question 15: On the GLA investigating new labour market breaches and offences, including Modern Slavery Act offences. [FLEX response – YES]

FLEX agrees that it would be beneficial for the GLA to be able to investigate the labour market breaches and offences that it encounters in its license monitoring and inspection activity. However caution is needed to ensure that any new powers do not transform the GLA into a law enforcement body that loses the trust and confidence that it has developed among vulnerable and exploited workers. The GLA must be adequately resourced to carry out any additional activities and priority must be given to continuing its monitoring and inspection functions.

Question 20: What are the benefits of the new Authority having a formal power to ask for assistance from relevant organisations?

The proposal for the GLA to conduct joint operations with organisations including ‘immigration enforcement’ poses a grave threat to the trust built between the GLA and vulnerable workers. Confusion between immigration control and labour inspection is a significant barrier to the identification of labour exploitation.

Question 23: Do you agree that the current licensing criteria should be reformed? [FLEX response – NO]

A licencing and inspection framework that links to forced labour indicators is key to ensuring that there is a level playing field for business operating in the UK. The GLA license system and the monitoring of gangmaster compliance with the GLA’s eight licensing standards ensures parity between providers and reduces the risk of exploitation of workers.

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