

Shelter's response to the Gangmasters Licensing Authority (GLA) Licensing Standards Consultation

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Shelter

About Shelter

Shelter is a national campaigning charity that provides practical advice, support and innovative services to over 170,000 homeless or badly housed people a year. This work gives us direct experience of the various problems caused by the shortage of affordable housing across all tenures. Our services include:

- A national network of over 20 advice centres
- Shelter's free advice helpline which runs from 8am-8pm
- Shelter's website which provides advice online
- The Government-funded National Homelessness Advice Service, which provides specialist housing advice, training, consultancy, referral and information to other voluntary agencies, such as Citizens Advice Bureaux and members of Advice UK, which are approached by people seeking housing advice
- A number of specialist services promoting innovative solutions to particular homelessness and housing problems. These include Housing Support Services which work with formerly homeless families, and the Shelter Inclusion Project, which works with families, couples and single people who are alleged to have been involved in anti-social behavior. The aim of these services is to sustain tenancies and ensure people live successfully in the community.
- We also campaign for new laws and policies - as well as more investment - to improve the lives of homeless and badly housed people, now and in the future.

Summary of Shelter's recommendations

- Shelter agrees that the proposed interpretation of 'effectively providing', taken from BERR's guidance, should be incorporated into the revised standards.
- Shelter agrees that standard 4.3 should be amended to better reflect the requirements of the Gas Safety Regulations 1994.
- Shelter recommends altering the scoring system so that major non-compliances score 15 points each and both reportable and correctable non-compliances are counted in the licence-holder's ultimate score.
- Shelter recommends that Licensing Standard 2 should be preserved as a 'critical' standard to adhere to, and that gangmasters failing to pay at least the minimum wage, taking into account accommodation charges, should have their licences revoked. In addition, a failure to provide accurate payslips should be a critical breach of the licensing standards.
- Shelter supports Licensing Standard 4 warranting an automatic revocation of the GLA licence where there is evidence of poor or overcrowded housing conditions, or a failure to

conform with local housing regulations on HMOs. Such failures should continue to warrant the maximum score.

- Shelter believes that the standards should continue to insist that gangmasters pay the minimum wage, taking into account the accommodation offset. There should be no relaxation of the rules relating to the maximum offset allowed.
- Shelter believes that the remit of the GLA should be extended to cover all sectors employing high levels of migrant workers are employed, specifically construction, cleaning and hospitality.
- Shelter believes that the test applied during a GLA inspection should require a gangmaster to show evidence that, where accommodation is provided, tenancy/ licence agreements have been provided to the worker.
- Shelter would like to see a statutory framework for closer joint working between the GLA and local authorities, to assist in the process of selective licensing where abuses are suspected or identified.

Introduction

As a housing and homelessness organisation, we have been particularly concerned at the growing body of evidence which documents both the poor housing conditions of migrant workers and the increase in destitution among this group. We have recently published a discussion paper on this subject, *No place like home? Addressing the issues of housing and migration*, which is available at http://england.shelter.org.uk/professional_resources/policy_library/policy_library_folder/no_place_like_home_policy_discussion_paper

According to recent research, new migrants have little choice over the type and location of the housing they live in during their early years of settlement. Their circumstances are dominated by constraining factors and often bear little relation to the settlement patterns of long-standing residents.¹ The housing experience of many new migrants is characterised by instability.

Migrant workers whose housing is tied to their job are particularly vulnerable to exploitative employers and landlords. In situations where such workers lose their jobs, they become homeless too, often with very little notice. A TUC-commissioned survey, published in September 2007, claimed that migration has reintroduced the 'tied cottage' into the British labour market, with employers providing accommodation at a cost and using it to increase their power over migrant workers. The survey found that 31 per cent of interviewees were living in accommodation that was found for them, or provided by their employers. Over 40 per cent of those working for more than a 48 hour week were in accommodation provided through their employer. Individuals reported that they had little control over working excessive hours because their employment was linked to their

¹ Robinson, D, Reeve, K and Casey, R, *The housing pathways of new migrants*, JRF, 2007

accommodation. More than half of those who described their living conditions as poor or very poor were in accommodation provided through their employer.²

According to a report by the Commission on Vulnerable Employment (CoVE), migrant workers face being provided with sub-standard housing and are more likely than other workers to face illegally high deductions for accommodation provided by the employer. In some cases, conditions are so bad that they meet internationally agreed definitions of forced labour.³

Shelter welcomes the fact that the Gangmasters Licensing Authority (GLA) is seeking to improve licensing standards and is very pleased to be able to respond to this consultation. We have restricted our response to the housing-specific questions and have added a number of additional points not specifically identified in the consultation questions themselves.

Consultation Questions

Section 4 of the Licensing Standards: Workers' Accommodation

7. Do you agree the GLA should use the BERR interpretation of "effectively providing"?

Section 4 of the licensing standards applies to those licence holders who provide, or effectively provide, accommodation to workers. Shelter agrees that the proposed interpretation of 'effectively providing', taken from BERR's guidance, should be incorporated into the revised standards. This will help to ensure compliance not only by those gangmasters who provide accommodation directly, but will also clarify the circumstances in which other providers of accommodation are bound by the standards.

8. Do you agree with the proposed changes to licensing standard 4.3?

Shelter agrees that the standard 4.3 should be amended to better reflect the requirements of the Gas Safety Regulations 1994. The addition of the suggested bullet points makes clear that installations, appliances and flues need to be checked and maintained at least annually by a CORGI registered installer; that the details of those checks are to be provided to the workers/ tenants and displayed in the accommodation; and that any remedial action identified should be undertaken promptly and appropriately.

² Anderson, B, Clark, N, and Parutis, V, *New EU members? Migrant workers challenges and opportunities to UK trades unions: a Polish and Lithuanian case study*, TUC report, 2007.

³ TUC Commission on Vulnerable Employment, *Hard work, hidden lives*, 2008, p53.

Licensing Standard Categories and Scoring

12. Do you think the GLA should continue to use four categories of licensing standard?

13. Views are also welcome on the scores attributed to the different categories of standard. Do you think the fail score for an inspection should remain at 30 points?

14. If the licensing standards retain four categories of standard, do you think “reportable” and “correctable” standards should contribute to an inspection score?

Shelter believes that the current standard categories are acceptable and does not propose changes to those categories. Neither do we propose changes to the fail score of 30 points. However, we are concerned that the scores attributed to the four different standards are so wide-ranging. Critical non-compliance scores 30 points, resulting in an automatic fail; major non-compliances however only score 8 points. Reportable and correctable non-compliances score 4 and 2 points respectively and these are not counted for the purposes of the licence-holder's score.

Under the current system, a gangmaster could have 2 major areas of non-compliance and any number of reportable or correctable non-compliances without failing the licensing standard. Given the serious implications such non-compliances could have for vulnerable migrant workers, this seems unjustifiable. Shelter would recommend altering the scoring system so that major non-compliances score 15 points each and both reportable and correctable non-compliances are counted in the licence-holder's ultimate score.

15. Should any changes be made to scoring of individual standards?

Licensing Standard 2 requires a gangmaster to pay the minimum wage, taking into account the rules on accommodation charges. Failure to do so constitutes a 'critical' failure of the standard and therefore triggers an automatic revocation of the licence. Shelter recommends that this standard is preserved as a 'critical' one and that gangmasters failing to pay the minimum wage, taking into account accommodation charges, should have their licences revoked.

Other criteria that would impact on a migrant worker's ability to be appropriately housed, score very lightly in the GLA standards. For example, if the gangmaster fails to evidence itemised accurate payslips for each pay period, this alone would not result in revocation of the licence. However, the absence of appropriate wage slips would prevent the worker claiming income-related benefits to which they may be entitled. Shelter recommends that a failure to provide accurate payslips should be given greater priority and considered a critical breach of the licensing standards.

Licensing Standard 4 is concerned with workers' accommodation. The guidance to inspectors makes clear that any accommodation provided by the gangmaster should conform to current legislation. There should be no evidence of poor or overcrowded conditions or failure to conform to local housing regulations on Houses of Multiple Occupation (HMOs). If inspectors find evidence that the gangmaster fails to provide appropriate facilities (e.g. water, power, heating, bedding, sanitation), or fails to provide tenants with copies of current gas safety certificates, there would be an automatic fail and a revocation of the licence. Again, Shelter supports these factors warranting an automatic revocation of the licence and believes they should continue to do so.

Licensing Standard 2.8: Paying National Minimum Wage

25. Views are welcome on how the standards could take into account issues relating to the accommodation offset.

While migrant workers make a net contribution to the economy, they often take home very low wages and frequently live in sub-standard accommodation. An analysis of earnings for A8 migrants registered on the Worker Registration Scheme suggests that their average earnings are somewhere between 47–63 per cent of UK average earnings.⁴ Around 72 per cent of these A8 migrants earn between £4.50 and £5.99 per hour.⁵ This is a full-time annual equivalent of £8,190 gross – £10,901 per annum. However, many migrant workers are not employed full-time or for the whole year without breaks.

Given the very low wages of many such workers, it is imperative that gangmasters providing or effectively providing accommodation comply with requirements to pay at least the minimum wage taking into account the accommodation offset (currently £30.10 pw). To increase the amount deducted for accommodation or to relax the rules around the accommodation offset and payment of the minimum wage would increase the likelihood of exploitation among this already vulnerable group of workers.

Additional points

GLA remit

Shelter welcomes the establishment of the GLA, with its task of operating and enforcing a licensing system for labour providers. We believe that with its relatively limited resources, the GLA has so far done an excellent job of identifying unscrupulous labour providers. However, a major shortcoming

⁴ LSC, *Migrant workers and the labour market*, 2007, para 29.

⁵ UK Borders Agency, *Accession monitoring report May 2007 – June 2008*, page 16.

of the GLA is that it only licenses labour providers in a limited number of specific sectors: agriculture, horticulture, shellfish gathering, food processing and packaging. It has no powers to intervene to stop unscrupulous labour providers elsewhere in the UK economy. By the end of its first year of operation, only 17 per cent of those registered on the Worker Registration Scheme were working in these sectors. Gangmasters unwilling to pay for licences can simply move outside of the GLA remit into areas such as construction, cleaning or hospitality – all of which are areas where many migrant workers are employed. Shelter believes that the remit of the GLA should be extended to cover all areas with high levels of agency employment, and specifically construction, cleaning and hospitality, as a priority.

Tenancy / Licence Agreements

The guidance in the GLA standards says that details of any accommodation provided should be given to the worker, including the terms on which it is offered and the cost. However, the inspection test makes no mention of the need for the gangmaster to give a written tenancy or licence agreement to the worker. Shelter believes that the test applied during inspection should require the gangmaster to show evidence that, where accommodation is provided, tenancy/ licence agreements have been provided to the worker.

Joint working between the GLA and local authorities

A report to the Migration Impacts Forum in January 2008 found that approximately 90 per cent of people who arrived in the UK over the last two years are living in the PRS, often enduring poor and overcrowded conditions.⁶ In addition, within the early months and years of residence, new migrants may have to move several times because of the temporary nature of their accommodation.

A survey by the Local Authorities Coordinators of Regulatory Services (LACORS) has found that more than half of all local authorities have noted problems with private landlords exploiting migrants. The survey results constituted the early findings of an evaluation of the new licensing powers given to local authorities for HMOs. Most councils surveyed expressed concerns about the housing conditions of migrant workers, particularly prevalent in rural areas. For example, in Yorkshire 93 per cent of councils said that they had an issue with the housing of migrant workers, as did 75 per cent of councils in the North West. The survey described some officers finding: 'appalling and overcrowded conditions in which some workers are forced to live, exceeding the legal occupancy limit and endangering the safety of those living there.'⁷

⁶ <http://www.communities.gov.uk/documents/communities/pdf/651075>

⁷ Migrant workers present housing challenge for councils, Press release, LACORS, July 2007, <http://tinyurl.com/3warkg>

Shelter is extremely concerned by such reports and by the fact that only some HMOs are covered by the mandatory licensing regime. If the licensing of all HMOs were made mandatory, there would be a more systematic approach to dealing with many problem properties.

At present, local authorities have the Housing Health and Safety Rating System, which is intended as a tool to identify risk in residential properties; they also have powers with regard to the licensing of houses in multiple occupation. The GLA for its part, has to ensure that there is no breach of legislation. However, it is much less clear how the GLA and local authorities work together to identify abuses. A framework for closer joint working between the GLA and councils, could mean selective licensing of certain areas where abuses are suspected and an increase in the number of abuses identified.

Both the GLA and the local authority would be able to identify licensed properties with much greater ease. This would ensure that inspections could take place routinely, rather than in response to problems which have already arisen. In the absence of mandatory licensing, Shelter proposes a framework for closer joint working between the GLA and councils.

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