

Attachment 7: Compliance Unit

Table 1: Compliance Units in other jurisdictions

Scheme	Model
Gangmasters Licensing Authority (UK) (GLA)	<p>The GLA is concerned with identifying the more persistent and systematic exploitation of workers rather than concentrating on isolated non-compliances, unless such a non-compliance is “critical” in its own right. The GLA works with other government departments and agencies and exchanges information through legal gateways. This forms part of the licensing process and assessment of compliance with the standards. Compliance with the licensing standards is assessed through inspections of applicants and licence holders.</p> <p>The inspection may include visiting clients to check the place of work and interviewing workers. The licence holder may be asked to provide documentary evidence (such as written terms and conditions with workers and clients, contracts, wage books etc.) to demonstrate compliance with the licensing standards.</p> <p>There is a right of appeal against any decision of the GLA: to refuse an application for a licence, to attach conditions to a licence, to revoke a licence, or to refuse the transfer of a licence. Appeals are made to the Gangmasters Licensing Appeals Secretariat.</p> <p>The GLA enforces criminal offences included in the Gangmasters (Licensing) Act 2004 on behalf of the Department for Environment, Food and Rural Affairs.</p> <p>GLA has additional powers:</p> <ul style="list-style-type: none"> - Power of entry to premises and to require production of documents; - Examine records in any form of media; - Enter under force to search and seize, with a court warrant, in criminal investigations; - Power of arrest for those acting without a licence (in practice this is done via joint investigations with the police); - Authority to conduct surveillance, control informants and obtain specific telephone data from mobile service providers; - Initiate financial investigations; and - Conduct IT forensic examinations.
Employment Agency Licence (Singapore)	<p>Possible enforcement actions; warn, issue demerit points, revoke licences, offer composition fines, prosecute, suspend licences and forfeit security deposits even when licences are not revoked.</p> <p>Employment Agencies (EAs) that breach the <i>Employment Agencies Act 1959</i>, <i>Employment Agencies Rules 2011</i> or Employment Agency Licence Conditions may be issued demerit points. EAs that commit severe infringements (e.g. illegal deployment of foreign workers, abuse of workers) may have their licence revoked.</p> <p>Depending on the number of demerit points they accumulate, EAs will face a range of administrative requirements including providing a minimum security deposit of \$40,000, having their security deposit forfeited, being placed under surveillance, having the licence suspended or revoked.</p>
Queensland Electrical Safety	<p>Workplace Health and Safety Queensland (WHSQ) and the Electrical Safety Office (ESO) inspectors visit workplaces to respond to health and safety incidents, electrical safety incidents and to monitor and enforce compliance with the <i>Work Health and Safety Act 2011</i> (Qld), <i>Electrical Safety Act 2002</i> (Qld) and <i>Safety in Recreational Water Activities Act 2011</i> (Qld).</p> <p>Inspectors can visit workplaces to investigate workplace incidents; investigate reports of unsafe, or unhealthy conditions and dangerous work practices; assess workplace health and safety and electrical safety risks to workers and members of the public; conduct inspections and national,</p>

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	<p>statewide and regional audit campaigns; provide information and advice on the legislation; resolve work health and safety issues; resolve right of entry and workplace access disputes; review disputed provisional improvement notices.</p> <p>An inspector may:</p> <ul style="list-style-type: none"> • inspect or examine any part of the workplace • observe or search any part of the workplace (e.g. use of a machine or work processes) • take measurements • take photographs or film anything at the workplace • conduct tests (e.g. presence of lead in paint) • take samples of things (e.g. substances used at the workplace) • request a person or other persons to produce certain documents (e.g. maintenance records kept by a mechanic contracted by an employer to do the work) • obtain copies of documents (e.g. training records, manufacturers instructions) • undertake enquiries or conduct surveys to assess the degree of risk or standards of health and safety • talk to managers, supervisors, workers and other people when an incident has occurred • enquire into circumstances and probable causes of workplace incidents • require a person to give reasonable help • seize things as part of the investigation at the workplace. <p>Electrical workers or electrical contractors can face disciplinary action by the Electrical Licensing Committee. Electrical workers can face disciplinary action can include, if they:</p> <ul style="list-style-type: none"> • perform unsafe, negligent or incompetent electrical work • supply incorrect or misleading information to obtain an electrical licence • no longer comply with the eligibility requirements for the licence • commit an offence under the <i>Electrical Safety Act 2002</i>. <p>The Electrical Licensing Committee may take a range of disciplinary action including:</p> <ul style="list-style-type: none"> • cancelling or amending a licence • suspending a licence • putting conditions on a licence • imposing fines • ordering correction of faults or defects. <p>Electrical workers are allowed to seek a review of the decision or appeal if they are refused an electrical licence or have conditions or restrictions are placed on their licence.</p>
<p>Queensland Building and Construction Commission</p>	<p>Compliance efforts focus on consumer and licensee education and working with business and industry to promote compliance with the law. Compliance measures are backed up with a range of enforcement options including:</p> <ul style="list-style-type: none"> • stop unlawful conduct; • undo harm caused by contravening conduct; • ensure future compliance with the law;

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	<ul style="list-style-type: none"> • deter future offending conduct; • encourage the effective use of compliance systems; and • where warranted, punish the wrongdoer by the imposition of penalties or fines. <p>Risk based approach to compliance enforcement - To maximise public benefit, enforcement activity is targeted to areas of strategic policy or consumer detriment. The QBCC cannot pursue all complaints it receives. All complaints are considered before the QBCC exercises its discretion in directing resources to the resolution and investigation of matters that provide the greatest overall benefit for consumers. QBCC is less likely to pursue matters that are one-off, isolated events; are more appropriately resolved between the parties; involve issues more effectively dealt with by another agency, or are primarily contractual or private right issues.</p> <p>QBCC has a range of administrative, civil and criminal enforcement remedies available under various Acts it administers. Enforcement strategies can be designed to achieve one or more of the following:</p> <ul style="list-style-type: none"> • making a licensee or unlicensed individual aware of how the law affects their operations through advice, warnings or conditions; • getting fair remedy for the individual consumer concerned through obtaining early dispute resolution or home warranty insurance; • stopping a pattern of continuing conduct and deterring future misconduct through injunctions, issuing fines or commencing a prosecution. <p>QBCC give enforcement priority to matters that demonstrate one or more of the following factors:</p> <ul style="list-style-type: none"> • conduct of significant public interest or concern; • conduct resulting in significant consumer detriment; • conduct affecting disadvantaged or vulnerable consumer groups; • the conduct suggests a pattern of non-compliance by the licensee or is indicative of a risk of future misconduct; • conduct involving a significant new or emerging market issue; • whether action is likely to have a worthwhile educative or deterrent effect; • conduct demonstrating a blatant disregard for the law; and • conduct that is industry-wide or is likely to become widespread if the QBCC does not intervene. <p>Where appropriate the QBCC may also pursue matters that test or clarify the law.</p> <p>Enforcement matters that are dealt with through litigation or formal resolution are made public.</p>
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Table 2: Compliance Unit proposals in Issues Paper

Submitter	Model
Australian Manufacturing Workers' Union	Submitted that the regulator must have scope to; effectively assess licence applications (including approval/rejection of applications); actively enforce the laws, including investigation of concerns and complaints re WHS/IR/regulations/financial viability; issue improvement and contravention notices; prosecute breaches of licences and/or disputes before the Queensland Industrial Relations Commission or other relevant jurisdiction; provide education and training; establish a public register of licenced labour hire companies and a secondary register of companies who have had their licence denied, revoked and/or breach their licensing conditions; gather information; prepare regular and detailed reports to the Queensland Parliament; and refer discrete matters to Federal Statutory Bodies.

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United Voice	Submitted that the licensing body should be properly resourced to proactively investigate reported breaches and empowered to take decisive action once a breach has been determined. The terms of each licence should be publicly available so that they are easily detected and accurately identified. They submitted that a public centralised national database should be available online.
National Union of Workers	<p>Submitted that the compliance unit would be responsible for issuing licenses, ensuring compliance with licence requirements, monitoring the activities of licensees through regular audits and investigations, and would have an educative, advisory and campaigning function.</p> <p>Where the licence holder breaches a requirement, the unit would revoke or suspend the licence. In particular, the unit would establish a public register; develop and manage an online portal that acts as a one-stop-shop; provide the Queensland Government of an understanding of labour hire providers operating in Queensland; conduct investigations; determine if a licence holder has breached a condition; provide education and conduct targeted campaigns; and audit contracts.</p> <p>Proposed that the compliance unit would prepare and table report of their licensing and compliance activities in Parliament to provide the Queensland Government with a strong understanding of the labour hire industry in Queensland.</p>
Lockyer Valley Regional Council	Suggested that WHSQ should administer and enforce a nationally recognised and state level licensing for the labour hire industry in Queensland. They suggested that the unit would be responsible for issuing licenses, ensuring compliance with licence requirements and monitoring the activities of licensees through regular audits and associated compliance activities. They could enforce licence requirements including ensuring a labour hire operator is licensed, failing to provide the mandatory training to labour hire workers and providing false or misrepresentative information to the compliance unit. They submitted that without immediate and punitive repercussions for non-compliance, the addition of any further regulation would be purely an academic exercise and would increase red tape.
Electrical Trades Union	Submitted that a dedicated licensing and compliance unit be responsible for considering all licence applications.
Local Government Association of Queensland	Submitted that it must be proactive and not merely react to complaints. Regular inspections, snap-visits and interviews with host employers and labour hire workers should also be a regular feature of its operations. It should also be structured to assist firms if their business is being inappropriately threatened by other parties, e.g. unreasonable actions by unions, or by host employers.
Queensland Council of Unions	Submitted that a compliance unit would have an educational role, be properly resources and located in an appropriate government agency.
Queensland Law Society	Submitted that the unit should be responsible for approving and revoking licence registration, enforcing licensing conditions and prosecuting contraventions of the scheme. It would also have a research and public policy purpose. It would also be appropriate for the unit to have the capacity to refer identified contraventions of workplace laws to other relevant statutory bodies.