

MANAGEMENT OF OVERSEAS RECRUITMENT

Good practices sharing from the Book Chain Project

February 2020



CONTENT

1. Policy and due diligence process
2. Contracts with labour agencies
3. Pre-employment communication
4. Interviews upon arrival
5. Contract for migrant workers
6. Secure storage for workers to keep ID/passports
7. Remediation of existing workers for recruitment fees paid
8. Incentivisation for returning workers

1.0 POLICY AND DUE DILIGENCE PROCESS

1.1 Develop and publish a clear policy on ethical recruitment.

1.2 The policy should state:

1.2.1 that the employer is responsible for the cost of workers' total recruitment fees and related costs whether incurred in the origin country or the receiving country, and will pay these costs to recruitment agents, as appropriate, after a worker has accepted a job offer;

1.2.2 that recruitment agents may not charge workers any recruitment fees or related costs;

1.2.3 the measures at each step of recruitment, employment and resignation processes that are in place to ensure ethical recruitment and employment practices are upheld (as illustrated in the following slides).

1.3 Ensure both internal stakeholders (e.g. HR, procurement and production team) and external stakeholders (recruitment agencies, sub-agencies, service providers) know exactly what role they must play in delivering the policy.

1.4 Strengthen your company's due diligence process:

1.4.1 Develop a more comprehensive risk-assessment approach (e.g. risk assessment matrix and interview guide to use during agency selection);

1.4.2 Request agencies to provide a comprehensive overview of their recruitment process from start to finish, including engagement and monitoring of brokers;

1.4.3 Request disclosure of names and licenses of all affiliated agents and brokers;

1.4.4 Monitor agency practices and broker involvement;

1.4.5 Introduce measures to prevent contract substitution.

2.0 CONTRACTS WITH LABOUR AGENCIES

2.1 Have contracts in place with the labour agencies that you use.

2.2 Include your ethical recruitment policy as a contractual requirement and ensure that agencies understand its purpose, as well as its specific requirements.

2.3 Specify in the contracts the amount that the agency will charge you as the employer for recruitment of workers and related expenses. This amount may include a reasonable and sustainable profit margin for the agents based on a thorough review of actual recruitment fees and related costs.

2.4 Include in contract clauses stipulating that:

2.4.1 The agency must not charge any fees to workers;

2.4.2 The agency must work with registered third parties operating in accordance with legal requirements, and must disclose a list of all overseas agents [company name, address, and key contact details] contracted to supply labour;

2.4.3 Clarity of role and responsibilities:

- a. The agency is responsible for communicating your company's ethical recruitment standards and requirements to all parties involved, and for undertaking checks of brokers to ensure compliance with said standards and requirements.
- b. The agency is responsible for ensuring that contracts of employment written in a language that workers understand are provided sufficiently in advance of departure, and that workers understand the terms and conditions detailed therein.

2.4.4 Punitive clauses for breaches by recruitment agency where cases of fee-charging are identified:

- a. This should include agency's liability for reimbursing the workers, and contract termination in the case of failure to comply with the ethical recruitment policy.

3.0 PRE-EMPLOYMENT COMMUNICATION

3.1 Ensure that migrant workers are aware of the full terms and conditions of their employment in the destination country at the time of recruitment and prior to contract signing and departure.

3.2 The communication that advertises jobs to workers prior to contract signing should state explicitly, in a language workers understand, that the employer pays all recruitment fees and related costs in advance and reimburses any minimal costs on arrival.

3.3 In actual practice, this could mean:

3.3.1 Develop a briefing pack – could be in file or digital format (e.g. video/ audio pack), in which full employment terms and conditions (e.g. job roles, working hours, compensation and benefits) are clearly explained in workers' local languages, including that the employer pays all recruitment fees and related costs and will reimburse the cost they bear on arrival;

3.3.2 Request the labour agencies and the brokers they use in the origin countries to deliver this pack to all migrant workers before contract signing and departure;

3.3.3 Request all migrant workers to sign a declaration that they've gone through and understand the content in the briefing pack;

3.3.4 Request agencies to file the worker declarations and send back to you as proof.

4.0 INTERVIEWS UPON ARRIVAL

4.1 Develop and implement standardised on-arrival interviews with workers to check:

4.1.1 Workers' understanding of content in the briefing pack (this is to verify if the brokers/agencies have fulfilled the request to deliver the pack to the workers and make sure they understand the content);

4.1.2 If workers have paid any recruitment fees or related costs

4.2 In actual practice, this could mean:

4.2.1 Develop a standard interview question list – information regarding fees paid, information provided by agencies, brokers used, recruitment and contracting process etc.;

4.2.2 Conduct interviews in workers' local languages, use interpreters where required;

4.2.3 Train interviewers to screen for indicators of deception and coercion in recruitment (check [ILO's InfoStory on Deceptive recruitment and coercion](#) for reference)

4.2.4 Set up effective grievance mechanism (e.g. worker hotline, suggestion box/ mailbox) for workers to raise any issues and concerns in the factory, and communicate that to the workers so that they're aware of and know how to use these channels.

5.0 CONTRACT FOR MIGRANT WORKERS

5.1 Standard employment contract should be provided to all migrant workers;

5.2 If, due to any force majeure, the above could not be fulfilled, standardised terms and conditions where possible should be provided within employment contracts for all migrant workers. This might include:

5.2.1 Contract term;

5.2.2 Burden of recruitment fees and related costs (return flights, visa etc.);

5.2.3 Job description;

5.2.4 Work place and working hours;

5.2.5 Remuneration and benefits;

5.2.6 Holidays and leave;

5.2.7 Termination and discharge of employment contract.

5.3 All contracts should be made available in both English and workers' local languages.

6.0 SECURE STORAGE FOR WORKERS TO KEEP ID/PASSPORTS

6.1 Companies must ensure that workers always have free access to their documentation, including passports, identity papers and travel documents;

6.2 Companies should provide safe storage facilities (such as a locker) for workers' identity documents where requested to do so by workers. Workers must have unrestricted access at all times to the documents, and there should be no constraints on the ability of the workers to leave the enterprise;

6.3 This policy should be communicated internally to all workers and staff, and externally to all prospective and actual business partners and to relevant stakeholders.

7.0 REMEDIATION OF EXISTING WORKERS

7.1 In line with Employer Pays Principle, employers should ensure that workers who have paid recruitment fees and related costs are reimbursed fully immediately upon their arrival to the workplace or within a reasonable period of time agreed by the employer and the workers.

7.2 In practice, the Universal Payment Principle is a straightforward and commonly-adopted method to reimburse recruitment fees to workers. This means:

7.2.1 Migrant workers' recruitment fees and related costs incurred in both the origin and receiver country are verified through an independent and transparent investigation;

7.2.3 The amounts of payments are based on the average quantum reported by workers, according to their nationality, cross-checked with published data from the ILO or other reputable organisations;

7.2.4 All migrant workers employed at the date of discovery of the issue are eligible, regardless of length of service or ability to produce receipts;

7.2.5 Companies clearly set out the approach/policy to remediation in writing before repayment begins and communicate internally with all workers and externally with all stakeholders. This should include:

- a. Repayment is made on a regular basis with documented evidence on each payment;
- b. Workers who leave receive the money they are owed and the repayment does not tie workers to their jobs;
- c. Workers have access to an independent grievance mechanism to clarify any issues or report concerns;
- d. Workers understand the nature of the reimbursement, the amount they will receive and the timescales, and are aware of the grievance mechanism.

7.2.6 The repayment process should be verified by an independent body (approved audit body).

8.0 INCENTIVISATION FOR RETURNING WORKERS

8.0 Workers should never be required to lodge a deposit for any agreed leave of absence from work (holiday or other requirement).

8.1 Workers should never be required to act as 'guarantors' for any worker who is taking an agreed leave of absence from work.

8.2 Incentivisation schemes can be used to reward returning workers, these could be in the form of returning bonuses (monetary or other gifts in kind).

USEFUL LINKS AND SOURCES

- https://www.ethicaltrade.org/sites/default/files/shared_resources/eti_background_paper_on_forced_labour_modern_slavery_oct_15_0.pdf
- https://www.ihrb.org/uploads/reports/IHRB_Remediating_Worker-Paid_Recruitment_Fees_Nov_2017.pdf
- <https://www.business-humanrights.org/en/repaying-recruitment-fees-charged-to-workers-must-be-at-the-heart-of-new-commitments-to-eradicate-modern-slavery>
- <https://www.verite.org/remediation-of-recruitment-costs/>
- http://electronicswatch.org/en/new-guidance-for-remediation-of-migrant-worker-recruitment-fees-to-help-public-buyers-address-forced-labour_2557777
- <https://www.ihrb.org/employerpays/the-employer-pays-principle>
- https://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_FL_FAQ_EN/lang--en/index.htm

carnstone
p a r t n e r s l t d

Produced by Carnstone Partners Limited
<https://carnstone.com/>