

WORKING WITH LABOUR RECRUITERS AND EMPLOYMENT AGENCIES

INTRODUCTION

The purpose of this tool is to provide practical guidance for the hotel industry on how to work with labour recruiters and employment agencies.

Read alongside: Guidance Note A: What Ethical Recruitment Means for the Hotel Industry.

It consists of five sections:

1. Labour recruiters versus employment agencies
2. Recruitment related risks
3. Engaging labour recruiters and employment agencies
4. Sample screening questions
5. Service agreement checklists

This tool is designed primarily for human resources and legal teams, working within hotels and corporate offices.

1. LABOUR RECRUITERS VERSUS EMPLOYMENT AGENCIES

The terms “labour recruiter” and “employment agency” are often used interchangeably. However, while the two entities provide similar services, there are some key differences:

LABOUR RECRUITERS	EMPLOYMENT AGENCIES
<ul style="list-style-type: none"> • Provide a range of services from: advertising, screening and interviewing applicants, to organizing migrant workers’ documentation (employment contracts, visas, travel approvals, medical tests, pre-departure training and travel logistics). • Operate in countries of origin and destination. • While hotels and corporate offices often recruit migrant workers directly in-house, it is not uncommon for hotels to use labour recruiters – especially those in countries of origin – during large recruitment drives, such as during peak tourism seasons. • Represent a moderate risk to the hotel industry. • Do not perform the role of employer. This responsibility falls on the hotel or corporate office. 	<ul style="list-style-type: none"> • Provide similar services to labour recruiters, however the key difference is that employment agencies also act as the employer. • In practice, this means migrant workers can be working at a hotel or corporate office, reporting to a hotel or corporate office employee (supervisor), while having no formal employment relationship with said hotel or corporate office. • Operate primarily in countries of destination. However, employment agencies often partner with labour recruiters to facilitate the recruitment of migrant workers. • It is common practice for hotels and corporate offices to outsource services, such as: cleaning, laundry, spa, gardening, maintenance, security and transport services, to employment agencies. • Represent a high risk to the hotel industry.

2. RECRUITMENT-RELATED RISKS

Labour recruiters and employment agencies provide a valuable service to many hotels and corporate offices. While their use alone should not be seen as confirmation that exploitation is occurring, it is important to understand the environment in which they operate and the potential risks they pose to migrant workers. Labour recruiters and employment agencies operate in a global environment that is:

- **Inconsistent:** The laws and regulations that govern international recruitment vary between, and even within, countries and sectors. Some countries fail to regulate their recruitment industry at all. This leads to confusion about what is, and is not, legally permitted.

- **Complex:** There are many steps involved in the recruitment process. These range from screening, interviewing and selecting applicants, to organizing migrant workers' documentation (employment contracts, visas, travel approvals), medical tests, pre-departure and post-arrival training, travel and accommodation in the country of destination. With each step, complexity and risk of exploitation increases.
- **Lacks transparency:** There are many stakeholders involved in the recruitment process. This not only includes subagents, labour recruiters and employment agencies, but also medical, training, transport and accommodation providers. Many of these stakeholders operate with little oversight and/or accountability.
- **Contradictory:** Labour recruiters and employment agencies operate largely on the assumption that migrant workers are responsible for covering the cost of their recruitment and migration. As a result, migrant workers are seen as a source of revenue. This can lead to job orders being sold from one recruiter to another and for hiring decisions to be based on who can pay, rather than merit.

Overall, the international recruitment environment is highly vulnerable to corruption and unethical practices.

WHAT CAN GO WRONG FOR MIGRANT WORKERS?

The figure below highlights the key risks to migrant workers during the recruitment process, which can ultimately lead to situations of forced labour.



Migrant workers who are recruited and employed through employment agencies are at an even greater risk of exploitation. This can be attributed to a lack of external scrutiny on the practices of employment agencies, which can lead to human rights and labour violations going undetected. In addition, when issues do arise at a hotel or corporate office, there is often confusion about where accountability lies, as the migrant worker does not have a formal employment relationship with the hotel or corporate office.

3. ENGAGING LABOUR RECRUITERS AND EMPLOYMENT AGENCIES

Hotels and corporate offices are encouraged to reduce their reliance on employment agencies and to recruit migrant workers directly, whenever possible. However, when this is not practical or permitted by law, then hotels and corporate offices should be selective in the labour recruiters and employment agencies they engage. The following steps are designed to guide hotels and corporate offices through this selection process.

PLANNING STAGE

1. Forecast potential staffing needs at least three to six months in advance, when possible. This will allow sufficient time to screen potential labour recruiters and employment agencies, as well as for the recruitment process to be carried out in accordance with legal and hotel brand policy requirements.
2. Determine whether the services of a labour recruiter or employment agency are required. Hotels and corporate offices should prioritize employing migrant workers within their business operations (rather than through employment agencies) to reduce the risk to migrant workers.
3. Clearly articulate the hotel brand's policy or position on ethical recruitment, and what is expected from labour recruiters and employment agencies, while seeking quotes or advertising job orders. This includes legal compliance, prohibiting the charging of recruitment fees and costs to migrant workers, transparency in employment terms and conditions, etc.
4. Research organizational structures and business practices of labour recruiters and employment agencies, to ensure policies and practices include a commitment to ethical recruitment; refer to the Sample Screening Questions below. Similarly, be responsive to any requests for information about the hotel's practices from labour recruiters and employment agencies.
5. Optional: Consider reaching out to credible organizations, such as the IOM, ILO and the Responsible Business Alliance, for referrals of labour recruiters or employment agencies that have participated in, or are in the process of participating in,

ethical recruitment initiatives and programmes. While a labour recruiter or employment agency's participation in one of these initiatives or programmes should not be seen as a "rubber stamp" for their business practices, it does demonstrate that they have taken some steps to align their business practices with ethical recruitment principles.

VETTING AND SELECTION STAGE

6. Only work with labour recruiters and employment agencies that are licensed or registered to provide recruitment services in both the countries of origin and destination. In addition, employment agencies should be licensed or registered to run their business in the country of destination.
7. Conduct background checks on potential labour recruiters and employment agencies to identify allegations of forced labour, or negative court decisions. This does not have to be an exhaustive exercise, but at the very least, hotels and corporate offices should do a targeted online (google) search for readily available information about the labour recruiter or employment agency. In addition, search for any recent reviews about the labour recruiter or employment agency.
8. Reach out to the relevant labour ministry and/or sending countries' embassy for information about the labour recruiter or employment agency. This includes confirming that the labour recruiter or employment agency are licensed/registered and have not been linked to allegations of forced labour, unethical recruitment, or any other labour violations.
9. In line with Guidance Note 3: Working with Civil Society and Including Migrant Worker Voice, reach out to a trusted civil society partner to seek feedback on the labour recruiter or employment agency. While this partner may not have direct, first-hand, knowledge of the labour recruiter or employment agency, they may be able to connect the hotel or corporate office with other civil society organizations. At the very least, they may provide advice about potential risks to migrant workers, including what area-specific issues to focus on while questioning potential labour recruiter or employment agencies.
10. If the hotel currently employs, or has employed, migrant workers who have direct experience with a labour recruiter, and it is appropriate to do so, seek feedback of the employees' experience with the employment agency/recruiter; noting that there may be some hesitation on the part of employees (especially current employees) to raise any concerns with you.
11. Seek references from other hotels or business enterprises that have used the labour recruiter or employment agency.
12. Once a labour recruiter or employment agency has been selected, formalize the relationship by entering into a service agreement, which contains ethical recruitment provisions. Refer to the Service Agreements Checklists below.

ONGOING MANAGEMENT

13. Following the signing of the service agreement, conduct ongoing due diligence on the labour recruiter or employment agency, to ensure they are complying with the hotel brand's policy and service agreement provisions. This will include seeking feedback from newly recruited migrant worker employees and employment agency staff. Refer to Tool 2: Interviewing Migrant Workers.
14. If human and labour rights violations (including unethical recruitment practices) are detected through migrant worker interviews: utilize the hotel's grievance mechanisms to work with the labour recruiter or employment agency involved, in order to provide prompt remediation to the affected migrant workers. Please note that this may also involve referring migrant workers to other grievance mechanisms and support systems, including State-based mechanisms. Refer to Tool 4: Access to Remedy and Checklists for Grievance Mechanisms. Where possible, hotels and corporate offices should try to work with labour recruiters and/or employment agencies to improve their business practices. Terminating contracts should be seen as a last resort.
15. Create and maintain a list of all vetted labour recruiters and employment agencies.

Please see the following pages for practical tools including: sample screening questions for labour recruiters, sample screening questions for employment agencies, a labour recruiter checklist, and a service agreement checklist.

ADDITIONAL RESOURCES

- [IOM Migrant Worker Guidelines](#)
- [IOM IRIS Standard on Ethical Recruitment](#)
- [ILO Private Employment Agencies Convention \(No. 181\), 1997](#)
- [ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Costs](#)

PUB2023/008/R



This resource was generously funded by the U.S. Bureau of Population, Refugees and Migration



SAMPLE SCREENING QUESTIONS FOR LABOUR RECRUITERS

This tool provides a non-exhaustive list for hotels and corporate offices to use when screening labour recruiters.

LABOUR RECRUITERS QUESTIONS

1. Can the labour recruiter provide a copy of their licence(s) to provide recruitment services in both the country of origin and destination?
2. Can the labour recruiter share its code of conduct, ethical recruitment policy, or mission statement?
3. Has the labour recruiter participated in any ethical recruitment programmes or initiatives (such as IOM's IRIS or CREST initiatives, the ILO Fair Recruitment Initiative, or the Responsible Business Alliance)?
 - a. If so, can the labour recruiter describe their participation, and where possible, provide contact details for the relevant programme?
4. What are the main services that the labour recruiter provides (e.g. advertising, screening, organizing documentation, travel, etc.)?
5. Which countries does the labour recruiter source migrant workers from? Or, if based in the country of origin: Which countries does the labour recruiter send migrant workers to?
6. Who does the labour recruiter work with in both the country of origin and destination?
(Tip: Press for information on local, informal partners, such as subagents).
7. What recruitment fees and costs does the labour recruiter charge migrant workers?
 - a. What other fees and costs do migrant workers need to cover (e.g. medical tests)? Noting that no fees and costs should be charged to migrant workers.
8. Can the labour recruiter describe their policy and procedures for collecting and storing migrant workers' passports?
9. When, and how, does the labour recruiter provide migrant workers with their employment contracts?
10. What training does the labour recruiter provide, or facilitate, for migrant workers before they begin their employment?
11. How often does the labour recruiter check on the well-being of migrant workers after they have commenced their employment?
12. Can the labour recruiter describe what grievance mechanisms are available to migrant workers? How and when can migrant workers access them?
13. If possible and not in violation of confidentiality agreements, inquire about other business partners the labour recruiter has provided recruitment services to or references for their services.

SAMPLE SCREENING QUESTIONS FOR EMPLOYMENT AGENCIES

This tool provides a non-exhaustive list for hotels and corporate offices to use when screening employment agencies.

EMPLOYMENT AGENCIES QUESTIONS

1. Can the employment agency provide a copy of their business license/registration, including their licence(s) to provide recruitment services in both the country of origin and destination?
2. What percentage of the employment agency's workforce are migrant workers?
3. Can the employment agency share its code of conduct, ethical recruitment, human rights policy, or mission statement?
4. Has the employment agency participated in any ethical/fair/responsible recruitment programmes or initiatives (such as IOM's IRIS or CREST initiatives, the ILO Fair Recruitment Initiative, or the Responsible Business Alliance)?
 - a. If so, can the employment agency describe their participation and where possible provide contact details for the relevant programme?
5. What are the main recruitment services that the employment agency provides (e.g. advertising, screening, organizing documentation, travel, etc.)?
6. Which countries does the employment agency source migrant workers from?
7. Who does the employment agency work with in both the country of origin and destination? (Tip: Press for information on local, informal partners, such as subagents).
8. What recruitment fees and costs does the employment agency charge migrant workers? Noting that no fees or costs should be charged to migrant workers.
 - a. What other fees and costs do migrant workers need to cover (e.g. medical tests)?
9. Can the employment agency describe their policy and procedures for collecting and storing migrant workers' passports?
10. When, and how, does the employment agency provide migrant workers with their employment contract?
11. What training does the employment agency provide, or facilitate, for migrant workers before they begin their employment?
12. Can the employment agency describe its process for paying employees their salaries (e.g. frequency, award rates, deductions, etc.)?
13. How often does the employment agency check that the correct wages, rates and benefits have been paid to its employees?
 - a. In the event of a mistake/underpayment, what steps does the employment agency take to rectify the problem?
14. How often does the employment agency check on the well-being (e.g. condition of accommodation, workplace satisfaction, mental health, etc.) of its employees?
15. Can the employment agency describe what grievance mechanisms are available to migrant workers? How and when can migrant workers access them?

SERVICE AGREEMENT CHECKLIST FOR LABOUR RECRUITERS

This section provides a non-exhaustive checklist for hotels and corporate offices to use when preparing service agreements with labour recruiters.

LABOUR RECRUITERS CHECKLIST		✓
1	Description of the business arrangement, involved parties, services, duration of contract, etc.	<input type="checkbox"/>
2	Provision that the labour recruiter will comply with the hotel brand's [responsible sourcing / ethical recruitment] policy, including: <ul style="list-style-type: none"> • Complying with all applicable laws and regulations in countries of origin and destination • Complying with international human rights laws and standards, including: prohibiting child and forced labour, respecting the right of freedom of association and collective bargaining and equality of treatment and non-discrimination • Prohibiting the charging of recruitment fees and related costs (as per the ILO's definition) to migrant workers • Prohibiting the withholding of migrant workers' passports, identity documents, bank books, deeds to property, etc. • Respecting transparency of employment terms and conditions 	<input type="checkbox"/>
3	Protocol for the payment of all recruitment fees and related costs by the employer to the labour recruiter, this includes: <ul style="list-style-type: none"> • Itemized list of all recruitment fees and costs to be paid by the employer • Time frame and mode of payment by the employer (where possible, employers should pay labour recruiters directly to avoid unnecessary charges to migrant workers) • Itemized list of any non-recruitment fees and costs to be paid by the migrant worker 	<input type="checkbox"/>
4	Provision for employment contracts to be supplied by the hotel/corporate office and to be provided to migrant workers in a language they understand, during the selection process	<input type="checkbox"/>
5	Provision for the labour recruiter to monitor the well-being of migrant workers once they have been deployed to the hotel or corporate office	<input type="checkbox"/>
6	Duty of the hotel or corporate office to grant the labour recruiter access to the employment site and accommodation of migrant workers (if relevant)	<input type="checkbox"/>
7	Provision for the hotel/corporate office, labour recruiter and/or third-party, to verify compliance of all parties with applicable laws and the hotel brand's policies	<input type="checkbox"/>
8	Requirement for both parties to disclose in writing any subcontracting arrangements <ul style="list-style-type: none"> • For labour recruiters, this includes details of any subagents or business partners 	<input type="checkbox"/>
9	Provision for dealing with amendments to migrant workers' employment contracts (Employment terms and conditions cannot be changed to the detriment of the migrant worker)	<input type="checkbox"/>
10	Details of relevant information sharing and record keeping (for example: during visa application and for audits)	<input type="checkbox"/>
11	Description of operational grievance mechanisms that are available to migrant workers	<input type="checkbox"/>
12	Protocols for safe return and replacements of migrant workers in the event of termination, as well as crisis and emergencies. These should also include provisions for migrant workers who do not pass medical examination, and where applicable, laws regarding return of pregnant migrant workers	<input type="checkbox"/>
13	Description of penalties/indemnities in case of non-compliance with the hotel brand's policies	<input type="checkbox"/>
14	Declaration that all information provided by the labour recruiter during the selection (tender) process was accurate, current and complete, at the time it was provided	<input type="checkbox"/>

SERVICE AGREEMENT CHECKLIST FOR EMPLOYMENT AGENCIES

This section provides a non-exhaustive checklist for hotels and corporate offices to use when preparing service agreements with employment agencies.

EMPLOYMENT AGENCY CHECKLIST		✓
1	Description of the business arrangement, involved parties, services, duration of contract, etc.	<input type="checkbox"/>
2	Provision that the employment agency will comply with the hotel brand's [responsible sourcing / ethical recruitment] policy, including: <ul style="list-style-type: none"> • Complying with all applicable laws and regulations in countries of origin and destination • Complying with international human rights laws and standards, including prohibiting child and forced labour, respecting the right of freedom of association and collective bargaining and equality of treatment and non-discrimination • Prohibiting the charging of recruitment fees and related costs (as per the ILO's definition) to migrant workers • Prohibiting the withholding of migrant workers' passports, identity documents, bank books, deeds to property, etc. • Requirement that all employees be provided with employment contracts that comply with local and applicable laws, are in a language understood by the employee and include clear terms and conditions of employment 	<input type="checkbox"/>
3	Requirement that the employment agency undertakes regular checks to determine that the correct wages, rates and benefits have been paid to its employees. The employment agency rectifies any instances of underpayment in a timely manner	<input type="checkbox"/>
4	Duty of the hotel or corporate office to grant the employment agency access to the employment site to check on the well-being of migrant workers (agency workers)	<input type="checkbox"/>
5	Provision for the hotel/corporate office, employment agency and/or third-party, to verify compliance of all parties with applicable laws and the hotel brand's policies	<input type="checkbox"/>
6	Requirement for both parties to disclose in writing any subcontracting arrangements <ul style="list-style-type: none"> • For employment agencies, this includes details of any subagents, labour recruiters or business partners 	<input type="checkbox"/>
7	Requirement that all approved subcontractors adhere to the conditions set out in this agreement	<input type="checkbox"/>
8	Details of relevant information sharing and record keeping (for example, during visa application and for audits)	<input type="checkbox"/>
9	Description of the employment agency's grievance mechanism, including how and when it is communicated to employees	<input type="checkbox"/>
10	Requirement for the employment agency to carry out human rights' due diligence on its business partners	<input type="checkbox"/>
11	Description of penalties/indemnities in case of non-compliance with the hotel brand's policies	<input type="checkbox"/>
12	Declaration that all information provided by the employment agency during the selection (tender) process was accurate, current and complete, at the time it was provided	<input type="checkbox"/>