

# Establishing Ethical Recruitment Practices in the Hospitality Industry



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# Introduction

This document provides practical guidance for the hospitality industry on recruiting international migrant workers ethically within business enterprise operations and supply chains. It has been developed by the International Organization for Migration (IOM) in partnership with the Sustainable Hospitality Alliance (the “Alliance”).<sup>1</sup>

This guidance aligns with ethical recruitment principles outlined in IOM’s IRIS: Ethical Recruitment initiative and the IRIS Standard, which is a global, multi-stakeholder standard that defines and establishes an operational benchmark for ethical recruitment. It closely aligns with the Sustainable Hospitality Alliance’s Principles on Forced Labour: *every worker should have freedom of movement, no worker should pay for a job, and no worker should be indebted or forced to work.*

This guidance is underpinned by the premise that all business enterprises have a responsibility to organize and run their business in a manner that respects human rights and addresses and mitigates risks of harm. It builds on the *United Nations Guiding Principles on Business and Human Rights (UNGP)*, *Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises*, the *International Labour Organization’s (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* and related standards and guidance on responsible business conduct.

This guidance is global in nature and is designed primarily for hotels. It is applicable to both multinational enterprises (MNEs) and small- to medium-sized enterprises (SMEs). It can also serve as a resource for other tourism-related industries as the principles of ethical recruitment are universal.<sup>2</sup>

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<sup>1</sup> The Sustainable Hospitality Alliance was formerly known as the International Tourism Partnership (ITP).

<sup>2</sup> This includes but is not limited to the aviation, cruise ship, road transport, food and beverage, construction and event and exhibition industries.



# 1

## Migrant workers and the hospitality industry

It is estimated that around one in seven people worldwide are migrants. While most people move within their country of birth, about a quarter of all migrants – or 272 million people – move between countries in search of better employment, education and livelihood opportunities and more stable and peaceful environments. Nearly two-thirds of all international migrants – or 169 million people – move for work, with men representing a slightly higher proportion than women.<sup>3</sup>

### 1.1 Migrant workers in the hospitality industry

It is difficult to estimate how many migrant workers are employed within the hospitality industry globally. However, the tourism sector,<sup>4</sup> which includes hospitality, is widely recognized as a driver of job creation and economic development. This is reflected in the 2030 Sustainable Development Goals, which include tourism-specific targets under Goal 1 - No Poverty, Goal 8 - Decent Work and Goal 12 - Responsible Consumption and Production. It is also supported by the World Travel and Tourism Council's estimates that the sector accounted for some 330 million direct and indirect jobs worldwide in 2019 – the equivalent of one in 10 jobs worldwide or 10.4 per cent of all employment.<sup>5</sup> The sector is well known to employ people who traditionally have difficulties accessing the labour market, such as women, young people, rural populations and migrant workers.<sup>6</sup>

#### Typical types of job opportunities

While migrant workers can be found working at all levels within the hospitality industry, they are often employed in low-skilled positions. For example, within a hotel setting, migrant workers can be found performing a variety of tasks, from housekeeping, kitchen and spa duties to gardening, driving and security services.

In addition to onsite roles, migrant workers can be found working in industries that supply essential goods and services to hotels. This includes but is not limited to garment and textiles (hotel uniforms, linen, etc.), dry cleaning and laundry, food and beverages, and construction industries.

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3 ILO, *ILO Global Estimates on International Migrant Workers*, 2021.

4 The tourism sector is the cluster of production units in different industries that provide consumption goods and services demanded by visitors. Such industries are called tourism industries because visitor acquisition represents such a significant share of their supply that in the absence of visitors, the production of these would cease to exist in meaningful quantity. UNWTO, *Measuring Employment in Tourism Industries* (Madrid, 2014).

5 World Travel and Tourism Council (WTTC), *Travel and Tourism: Global Economic Impact and Trends 2020*.

6 ILO, Chapter 2: Opportunities and Challenges in the Promotion of Decent Work in Hotel Global Supply Chains, *Sectoral Studies on Decent Work in Global Supply Chains* (2015).

## Vulnerability to exploitation

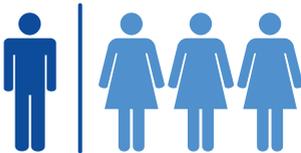
While most migrant workers have positive migration and employment experiences, they can be more vulnerable to exploitation. In 2017, IOM, the ILO and the Walk Free Foundation released the most recent global estimates on “modern slavery,” which is an umbrella term used to capture a range of exploitative practices including human trafficking and forced labour.

The estimates found that around 40 million people were victims of modern slavery globally. This included 25 million people who were victims of forced labour, with the majority being exploited in the private economy. Within this group, more than half of victims were women, and almost one in four victims were migrants. While victims often experienced multiple forms of coercion, personal debt was used to forcibly obtain labour from half of all victims working in the private economy.<sup>7</sup>



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7 ILO, Global Estimates of Modern Slavery: Forced Labour and Forced Marriage (Geneva, 2017).

Migrant workers can be vulnerable to exploitation in the hospitality industry for a range of reasons, including:

- The **seasonal nature of the hospitality sector** (high/low demands for labour) that leads to many migrant workers being employed on short-term, insecure contracts.
- The **nature of low-skill and low-paid work**, which limits migrant workers' bargaining power with employers.
- **Complicated outsourcing and employment relationships** where migrant workers may be employed to work at a hotel but have no formal employment relationship with the hotel.
- **Language and cultural barriers** that prevent migrant workers from speaking out when exploitation occurs, coupled with a lack of understanding and awareness of their legal rights and protections.
- **Visas that tie migrant workers to specific employers** in some countries. This not only limits workers' freedom to leave exploitative employment situations but also their capacity to report abuse for fear of deportation.
- Similarly, migrant workers who have an **irregular migration status** (i.e. lack the necessary visa) are more vulnerable as they are less likely to report abuse for fear of deportation.
- The **lack of effective grievance mechanisms** in relation to the recruitment and employment of migrant workers. It is particularly difficult for migrant workers to access remedy when they have returned to their country of origin.
- Gaps and inconsistencies between and within **countries' policies and laws governing labour migration**, which reduces transparency and allows unethical recruitment practices to flourish.

## 1.2 Understanding the risks to migrant workers during recruitment

International recruitment is complex, with practices varying between countries and even industries. Figure 1 provides a simplified overview of the key stakeholders involved in the international recruitment process.

### Complex recruitment process

While it is possible for an employer to request migrant workers directly from a labour recruiter in the country of origin, in many cases, the employer will go through a labour recruiter (or employment agency)<sup>8</sup> in the country of destination. This labour recruiter will then work with another labour recruiter in the country of origin who may work with one or more subagents at the community level.

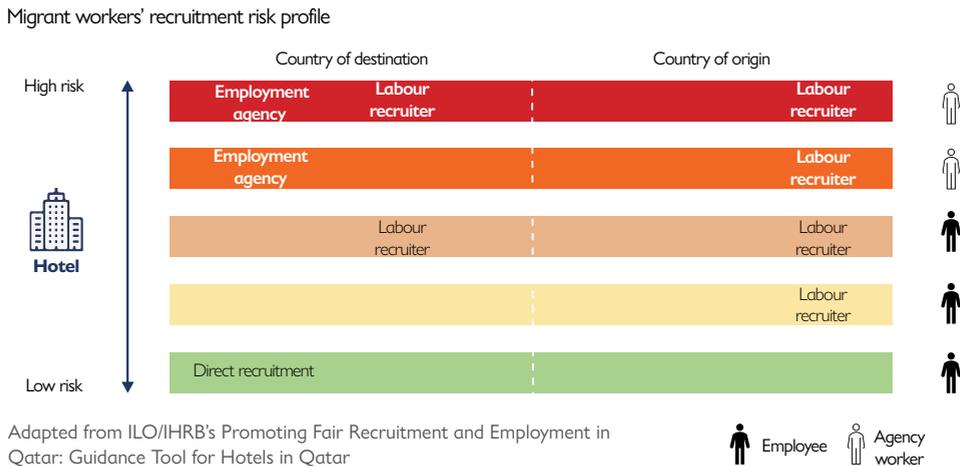
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<sup>8</sup> Employment agencies provide a similar service to labour recruiters in that they facilitate the recruitment of migrant workers. However, the key difference is that employment agencies also act as the employer. Please refer to the next section on the *Vulnerability of the Hospitality Industry* for more information on employment agencies.

Once a prospective migrant worker has been selected for a job abroad, they will need to complete a range of steps, including passing medical tests, obtaining travel documentation and undertaking training, before they can depart for the country of destination.

Once in the country of destination, they may need to repeat some of these steps and will often be provided with accommodation and transport to the employment site.

**Figure 1: A simplified overview of the international recruitment process<sup>9</sup>**



## The risks to migrant workers

### *Fees and costs*

Within the global economy, the prevalent international recruitment model is fragmented, non-transparent and operates largely under the assumption that it is the migrant worker's responsibility to bear many, if not all, of the recruitment fees and costs. This model can push migrant workers into precarious situations, including in extreme cases, forced labour.

In many cases, migrant workers have no choice but to take out loans, often with high interest rates, to cover these fees and costs. In practice, this can lead to workers not receiving a wage, or full wage, for many months or even years as their debt is garnished from their wages.

IOM has identified cases of migrant workers paying up to nine months of salary to secure jobs during their recruitment

<sup>9</sup> This diagram provides a simplified overview of a common international recruitment process. However, in reality, it is more complex and multiple variations of this process occur.

In many cases, the employer will be unaware that its employees (migrant workers) are forced to use a high percentage of their wages to pay back their recruitment related debt.

It is important to note that workers often pay much more than the true cost of recruitment. This is because workers often have little bargaining power and can find themselves at the mercy of unscrupulous labour recruiters and/or other intermediaries, such as subagents, training schools or medical facilities.

The burden of recruitment fees and costs also results in poor job matching between workers and employers as the work pool is reduced to those who can afford to migrate as compared to a situation of competency-based hiring.

### Withholding identity documents

Another common recruitment-related abuse relates to the withholding of migrant workers' identity documents. This can occur at the very beginning of the recruitment process when a prospective migrant worker first approaches a labour recruiter in search of a job abroad. Their passport is often held under the premise of safekeeping and to help speed up the process. However, in practice, this behaviour may limit or restrict the migrant worker in a number of ways. For example, it can prevent the migrant worker from accepting a (better) job through another labour recruiter, or alternatively it can prevent the migrant worker from withdrawing their candidacy in cases where they have changed their mind.

Similarly, a migrant worker's passport can be held in the country of destination to prevent the migrant worker from leaving their job. This is particularly common when the migrant worker has a high level of personal debt from their recruitment.

### Deception

In addition to the risks above, migrant workers must often contend with a lack of transparency in the recruitment process. In other words, it is not uncommon for migrant workers to be deceived, to some degree, about the job on offer. This often manifests in false promises about pay and conditions, working hours and the quality of accommodation available to migrant workers.

When a migrant worker arrives at the employment site and discovers the reality of the job, there are often no or limited grievance mechanisms in place, with little opportunity for remediation.

Furthermore, high levels of personal debt make it difficult for migrant workers to leave unsuitable and/or exploitative situations.

# 2

## The vulnerability of the hospitality industry

### 2.1 Unique vulnerabilities for hospitality

The hospitality industry is large and diverse. There are multiple ways of organizing and running a hospitality enterprise, with approaches varying within and between countries. Within the context of hotels, there are two main types of business enterprises:

- Multinational enterprises (MNEs): It is estimated that there are about 250 hotel chains globally with some of the largest hotel chains comprising more than 6,000 hotels that employ more than 150,000 employees in up to 100 countries.
- Small and medium sized enterprises (SMEs): These are small business enterprises with less than 250 staff in total. It is estimated that 80 per cent of the global hotel workforce are employed within SMEs.<sup>10</sup>

This section will examine some of the common characteristics of the hospitality industry and highlights how both MNEs and SMEs can be vulnerable to unethical recruitment practices.

#### A labour-intensive industry

The hospitality industry is labour intensive and employs a high proportion of low-skilled workers in service occupations. The World Tourism Organization, which is the UN agency responsible for the promotion of responsible, sustainable and universally accessible tourism, estimates that on average there is one employee for each hotel room globally.<sup>11</sup> While some hotels' demand for labour will remain constant throughout the year, other hotels will be influenced by seasonal demands (high/low seasons). Many hotels will need to employ migrant workers, especially during peak periods, as there are not enough local workers to meet their labour demands. While migrant workers can be hired directly, the complex nature of recruitment means that the services of labour recruiters are often required.

Similarly, many hotels outsource services to employment agencies or other business enterprises that employ migrant workers. This includes but is not limited to cleaning, laundry, spa, gardening, maintenance, security and transport services. Employment agencies provide a similar service to labour recruiters in that they facilitate the recruitment of migrant workers. However the key difference is that they act as the employer, as well. In practice, this means that a migrant worker can be working at a hotel and reporting to a hotel employee (supervisor) while having no formal employment relationship with the hotel. In some ways, employment agencies pose

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<sup>10</sup> ILO, Chapter 2: Opportunities and Challenges in the Promotion of Decent Work in Hotel Global Supply Chains, *Sectoral Studies on Decent Work in Global Supply Chains* (Geneva, 2015).

<sup>11</sup> UNWTO, *Measuring Employment in Tourism Industries* (Madrid, 2014).

a higher risk to migrant workers as there is often limited external scrutiny of their recruitment and employment practices, which can result in labour violations that go undetected. Furthermore, when issues arise at the employment site (hotel), there is often confusion about where accountability lies when a migrant worker has no formal employment relationship with the hotel.

It is important to note that when migrant workers are recruited unethically by employment agencies, the end-user (hotel) runs the risk of being indirectly associated with unethical recruitment.

Similarly, hotels can be indirectly associated with unethical recruitment through the actions of their business partners. The garment and textile, laundry and dry cleaning, food and beverages and construction industries represent key risk areas. It is important to note that under the UNGP, business enterprises are responsible for respecting human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved. *This includes seeking to prevent and mitigate adverse human rights impacts that are directly linked to their operations by their business relationships, even if they have not contributed to those impacts.*<sup>12</sup>

### Complex hotel ownership models

The complex nature of hotel ownership can exacerbate risks to workers and create confusion about which stakeholder is responsible for protecting the rights of migrant workers – especially during their recruitment. Within the context of MNEs, there are four main types of hotel ownership:



- **Owned and operated properties:** This model provides the MNE with the greatest level of freedom and the most control over the business but also the most substantial area of direct risk. The MNE is free to make all decisions concerning staff, operational structure and growth. Supplier agreements and contracts are negotiated by the MNE directly. It is estimated that less than 10 per cent of MNE hotels are directly owned and operated.

<sup>12</sup> United Nations, *Guiding Principles on Business and Human Rights* (2011).

- **Leased properties:** This model is similar in levels of control and risk to the owned and operated model. However, the physical building belongs to another entity. The MNE typically leases the building on a long-term basis and negotiates contracts with suppliers directly.
- **Managed properties:** This is where an existing privately owned hotel partners with a recognized MNE. The hotel continues to be privately owned, but the MNE lends its name to the hotel and takes over the day-to-day operations of the business – in effect becoming the management company. While the MNE negotiates agreements with suppliers, the contract rests with the owner of the property.
- **Franchised properties:** This is where the hotel is privately owned and operated. The hotel owner pays an upfront fee to purchase the franchise, through a franchise agreement, and pays ongoing royalties to the MNE. The MNE has least control over this type of operation, and unless something is specified in the franchise agreement, it will have no direct control over the hotel supply chain.<sup>13</sup>

The franchise model presents an indirect risk to MNEs as they have limited control and visibility over the franchisee's operations, including recruitment and outsourcing practices, and supply chain. *While franchisees may be held legally responsible if incidences of forced labour or debt bondage are uncovered, the MNE needs to seek to prevent or mitigate adverse human rights impacts that are directly linked to its operations as outlined in the UNGP, even if they have not contributed to those impacts.*

It is a simpler scenario for SMEs, with the majority of enterprises falling under the owned and operated or leased property models. The advantage for SMEs is that they have more control over their business operations, including which suppliers they engage. However, SMEs face a higher direct risk if unethical recruitment practices and labour violations are discovered.

## **Complex procurement practices**

Hotel supply chains are complex and influenced by a range of factors, including the size, geographic scope and type(s) of ownership models in operation. It is challenging for hotels to ensure that labour standards, including ethical recruitment practices, are applied throughout their supply chains. This is particularly the case for SMEs who often have fewer resources available to monitor the practices of suppliers and less influence to modify behaviour.

Most MNEs have established streamlined procurement practices to improve efficiency and reduce costs. This includes centralized procurement teams that negotiate global agreements for products that are fundamental to brand standards, including hotel linen and toiletries, as well as non-brand items, such as cleaning products. Some MNEs have replicated this centralized structure at the regional level, where region specific goods are negotiated and made available to all hotels within

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<sup>13</sup> ILO, Chapter 2: Opportunities and Challenges in the Promotion of Decent Work in Hotel Global Supply Chains, *Sectoral Studies on Decent Work in Global Supply Chains* (Geneva, 2015).

the region. Individual hotels then have the option of purchasing goods through central agreements or negotiating their own arrangements, provided they meet the MNE's standards. In practice, most owned and leased properties will make all their purchases through central agreements. Managed properties will also take advantage of central agreements unless the property owner has their own contracts in place. In contrast, franchised properties are less likely to use central agreements unless it is stipulated in the franchise agreement.<sup>14</sup>

It is important to note that MNEs cannot negotiate central agreements for every single product that is required by a hotel. Rather, centralized agreements tend to focus on products that have long shelf lives, can be shipped or manufactured worldwide and are generally high volume, providing economy of scale. In contrast, perishable goods and low volume or individual items are negotiated at the regional or local level. Similarly, outsourced services such as cleaning, housekeeping and gardening, which present a risk for unethical recruitment, are often negotiated locally.<sup>15</sup>

### Countries of operation

The hospitality industry operates worldwide. The political, social and economic environment in which hotels operate varies greatly from country to country. There are different laws and regulations in place governing labour, migration and all aspects of business that provide varying levels of protection for both local and migrant workers. Some countries pose a higher risk for labour violations than other countries. While this is a standard business risk and is typically managed through traditional risk management approaches, it is made more challenging when the risks associated with recruitment are also considered.

## 2.2 Risks of not addressing unethical recruitment

While unethical practices remain the norm in recruitment, the risks for not addressing unethical recruitment are well known. Business enterprises that do not address unethical recruitment risk being associated with allegations of modern slavery, which can damage a company's reputation and have lasting impacts on the entire industry. It can also lead to government fines, prosecution, or civil proceedings against a business enterprise. Linkages to exploitation or labour violations may lead to breaches in clients' codes of conduct or company policies, leading to repercussions such as loss of contracts. Business enterprises may also face risks of skills mismatches, poor retention of workers and health and safety issues, all of which can be linked to the recruitment process.



14 ILO, Chapter 2: Opportunities and Challenges in the Promotion of Decent Work in Hotel Global Supply Chains, *Sectoral Studies on Decent Work in Global Supply Chains* (Geneva, 2015).

15 Ibid.

# 3

## Initiating action on ethical recruitment

Both MNEs and SMEs are strongly encouraged to publicly commit to implementing ethical recruitment within their business operations and supply chains. This commitment should include clear time frames for implementation and should be supported by robust management systems. It should be clearly displayed within hotel premises for the benefit of staff, customers and suppliers. It should be visible on the business enterprise's website and other online platforms and referenced in reporting requirements, such as annual reports. For a commitment to be meaningful, it must cover the five essential elements of ethical recruitment referenced below.

### 3.1 Five elements for beginning implementation of ethical recruitment

Business enterprises that are committed to ethical recruitment:



#### 1. Respect the rights of migrant workers throughout the labour migration process

- This means the rights of migrant workers are respected during their recruitment, deployment (when they travel from their home to the employment site in the country of destination), employment and return home.
- In practice, the business enterprise and its business partners (e.g. labour recruiters, employment agencies, suppliers) comply with all applicable laws and regulations in countries of origin, transit and destination relating to recruitment, migration and employment.

In addition, the business enterprise and its business partners comply with international human rights laws and labour standards. This includes prohibiting forced labour and child labour, respecting the right of freedom of association and collective bargaining, and equality of treatment and non-discrimination, as recognized in the [ILO Declaration on Fundamental Principles and Rights at Work](#).

Importantly, the business enterprise takes steps to proactively engage migrant workers to understand their recruitment and employment experiences. This can involve checking in with migrant workers after they arrive at the employment site (e.g. hotel), ensuring migrant voices are included in worker representation models and providing migrant workers with access to employer grievance mechanisms. It can also include building relationships with civil society organizations that have the trust of migrant workers.

## 2. [Adopt the Employer Pays Principle of recruitment](#)<sup>16</sup>

- This is when the **business enterprise prohibits the charging of recruitment fees** and related costs to migrant workers that are employed within their business operations and supply chain. It aligns with the Alliance’s Principles on Forced Labour that *no worker should pay for a job and no worker should be indebted or forced to work*.
- Instead, **the employer (e.g. individual hotel) covers the cost of recruiting migrant workers**. This includes making every effort to pay recruitment fees and related costs directly or through recruiters. If it is discovered that fees and costs have been paid by workers, employers should reimburse migrant workers directly and in a timely manner.
- Business enterprises follow the [ILO definition of recruitment fees and costs](#):
  - » Recruitment fees: Includes payments for recruitment services offered by labour recruiters, whether public or private, in matching offers of and applications for employment; payments relating to the recruitment of workers to perform work for a third party; payments relating to direct recruitment by the employer; or payments required to recover recruitment fees from workers.
  - » Related costs: Expenses integral to recruitment and placement within or across national borders. Related costs include medical costs, insurance costs, costs for skills and qualification tests, cost for training and orientation, equipment costs, travel and lodging costs and administrative costs. These costs are generalized and not exhaustive.<sup>17</sup>

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<sup>16</sup> The Employer Pays Principle (EPP) is considered best practice and is endorsed and promoted by the [Leadership Group for Responsible Recruitment](#). The Leadership Group consists of several MNEs including IKEA, HP, Unilever, Coca Cola, which have all committed to implementing the EPP within their operations and supply chains by 2026.

<sup>17</sup> ILO, [General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs](#) (Geneva, 2019).

### 3. Carry out human rights due diligence on business operations and supply chains<sup>18</sup>

- This means the business enterprise proactively checks for the presence of migrant workers within their business operations and supply chain.
- The business enterprise carries out ongoing risk assessments to identify and prioritize risks to migrant workers during their recruitment, deployment, employment and return home.
  - » This includes checking whether migrant workers are being charged recruitment fees and costs, having their passports withheld or freedom limited, being misled about the job on offer and working in conditions of forced labour.
- Where gaps are found in existing policy or procedure in regard to due diligence and risk assessments, the business enterprise should seek out relevant processes, tools and information to strengthen their existing policies.
- The business enterprise implements action plans that are fit-for-purpose to prevent and mitigate identified risks to migrant workers.
- The business enterprise tracks the implementation and results of the established due diligence measures to ensure their effectiveness and to use lessons learned for further improvement of due diligence processes.
- The business enterprise communicates relevant due diligence information to internal and external stakeholders to create transparency on how it addresses its risks.

### 4. Respect migrant workers' right to freedom of movement

- This means that the business enterprise prohibits the withholding of migrant workers identity documents (passports), bank books, bank cards and deeds to land by any party involved in the recruitment and employment process.
  - » The only exception is when identity documents are legitimately needed to facilitate recruitment and employment, such as when applying for a visa. However, in these circumstances, the migrant worker must provide informed written consent, and their identity document must be returned as soon as possible.

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<sup>18</sup> Human rights due diligence involves assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses and communicating how impacts are addressed. United Nations, [Guiding Principles on Business and Human Rights](#) (2011).

- When accommodation is provided to migrant workers:
  - » The business enterprise provides a safe place for migrant workers to store their personal documents, including their identity document. This place is accessible to migrant workers at all times.
  - » The business enterprise does not restrict migrant workers' freedom of movement, including through the imposition of curfews, locking of dormitory doors (unless migrant workers have a key and can come and go freely) or other policies and practices which limit freedom of movement.
- The business enterprise ensures that all employment contracts for migrant workers include early termination clauses.
- This aligns with The Alliance's Principles on Forced Labour that *every worker should have freedom of movement*.

## 5. Provide access to remedy

- This is when the business enterprise identifies, through their human rights due diligence process or other means, that they have caused or contributed to an adverse human rights impact. When this occurs, the business enterprise has a responsibility to provide remediation<sup>19</sup> by itself or in cooperation with others.
- In practice, this means that the business enterprise has a grievance mechanism in place that is fair and transparent and easily accessible to migrant workers. This can be run in-house or in partnership with other stakeholders, such as civil society organizations.
- In addition, the business enterprise takes steps to understand and connect migrant workers to other grievance mechanisms, including those run by labour recruiters.
- The business enterprise does not prevent migrant workers from accessing alternative grievance mechanisms, including civil society and State-run mechanisms.
- MNEs may be required to review/strengthen their existing grievance mechanisms to ensure business enterprises understand what they are required to do. This may include taking action when uncovering policy breaches.

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<sup>19</sup> Remediation should be adequate and appropriate and proportional to the severity of the violation and adapted to the circumstances of each case. It can include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions, as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. United Nations, [Guiding Principles on Business and Human Rights](#) (2011).

# 4

## Practical tips for getting started

This section is designed to provide MNEs and SMEs with practical guidance on how to begin the process of implementing ethical recruitment within their business operations and supply chains. This guidance is not designed to be comprehensive in nature, but rather it is intended to provide some key recommendations and questions to ask when engaging business partners on their recruitment practices.

### 4.1 Developing policies

Business enterprises should begin by developing clear policies and/or codes of conduct that set out the business enterprise's commitment to ethical recruitment and expectations for employees and business partners, including labour recruiters, employment agencies and Tier 1 suppliers. In doing so, business enterprises may decide to update their existing human rights and/or sustainable sourcing policies to incorporate ethical recruitment. Alternatively, business enterprises may develop a new standalone policy on ethical recruitment that complements what is already in place. In any event, policies on ethical recruitment should be supported by comprehensive management systems and integrated into existing and new business contracts. In the context of MNEs, it is strongly encouraged that policies on ethical recruitment also extend to franchisees and that the policies are specified in new franchise agreements.

Once developed (or updated), policies should be communicated to internal and external stakeholders. They should also be made available on the business enterprise's website and displayed within hotel premises. All hotel employees should be trained on their roles and responsibilities in implementing the new policy.

It is important that policies include reasonable time frames for implementation, noting that some business partners will need time to modify their business practices, including renegotiating some business relationships. The business enterprise should seek to support business partners by providing training on policies and by working with suppliers to address incidences of non-compliance when possible. The termination of business relationships should be seen as a last resort.

## Minimum commitments

It is recommended that policies include the following commitments:

1. Respect the human and labour rights of migrant workers throughout the labour migration process, including:
  - Prohibiting forced labour and child labour
  - Prohibiting discrimination
  - Protecting migrant workers' rights to freedom of association and collective bargaining
2. Respect all applicable laws and regulations relating to the recruitment and employment of migrant workers in countries or origin, transit and destination.
3. Prohibit the charging of recruitment fees and related costs to migrant workers, in line with the ILO Definition of Recruitment Fees and Related Costs.
4. Respect freedom of movement for migrant workers, including:
  - During migrant workers' free time and in relation to their accommodation (e.g. no curfews or locking migrant workers in dormitories at night)
  - Prohibiting the withholding of migrant workers' identity documents or other valuable items, such as passports, bank cards and deeds to property
  - Ensuring that employment contracts include provisions for early termination
5. Respect transparency in employment terms and conditions by providing migrant workers with employment contracts prior to their departure that:
  - Contain clear terms and conditions of employment that comply with the law (e.g. wages, working hours, overtime, etc.)
  - Are written in a language understood by the worker
  - Prohibit contract substitution
6. Respect migrant workers' right to access to effective remedy throughout the entire labour migration process, including after their termination of employment and return.
7. MNEs with existing policies should examine how these policies are implemented on a regional/country level and include guidance on any actions or steps to be taken should local legislation conflict with company policy (e.g. some jurisdictions allow fee charging to migrant workers which may conflict with fee prohibitions in company policy).

## 4.2 Selecting and working with labour recruiters

Employers (hotels) are encouraged to hire local and migrant workers directly. However, when this is not possible due to the number of workers required or the complexity surrounding the recruitment process, employers should be selective in the labour recruiters they engage.

As a starting point, employers are encouraged to work with labour recruiters who are IRIS certified or are actively participating in IOM's IRIS Capacity Building Programme. They have committed to ethical recruitment and have taken steps to run their business in a manner that is consistent with the IRIS Standard.<sup>20</sup>

When selecting a labour recruiter, employers are encouraged to do a background check on the labour recruiter to check for allegations of forced labour or negative court proceedings. This does not have to be an exhaustive exercise, but at the very least, employers should do an online search for readily available information about the labour recruiter.

As a matter of good practice, employers should seek feedback from migrant workers who have previously been recruited through the labour recruiter. This may be possible if some of the hotel's current employees (migrant workers) have direct experience with the labour recruiter. Alternatively, employers are encouraged to reach out to the relevant labour ministry and/or sending country's embassy for information about the labour recruiter. Similarly, employers should reach out to local civil society organizations that work with migrant communities, as they are often a good source of information. Finally, employers are encouraged to seek references from other hotels or business enterprises that have used the labour recruiter.

### Key questions for labour recruiters

As part of the selection process and in ongoing due diligence, employers should seek information from labour recruiters about how they organize and run their business. Some key questions for employers to ask labour recruiters include:

1. Can the labour recruiter provide a copy of their licence(s) to provide recruitment services in both the country of origin (country where workers originate from) and destination (country where employment occurs)?
2. What are the main services that the labour recruiter provides (e.g. advertising, screening, organizing documentation, travel, etc.)?
3. Which countries does the labour recruiter source migrant workers from? Or if based in country of origin: Which countries does the labour recruiter send migrant workers to?
4. 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.)*
5. What fees and costs do migrant workers need to pay as part of their recruitment?  
*(Noting that migrant workers should not pay any fees or costs related to their recruitment.)*

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<sup>20</sup> The IRIS Certification scheme is available for private labour recruiters that are committed to ethical recruitment. Read more at <https://iris.iom.int/> and/or contact [iris@iom.int](mailto:iris@iom.int) for more information.

6. Can the labour recruiter describe their policy and procedures for collecting and storing migrant workers' passports?
7. When and how does the labour recruiter provide migrant workers with their employment contract?
8. What training does the labour recruiter provide or facilitate for migrant workers before they begin their employment?
9. How often does the labour recruiter check on the well-being of migrant workers after they have commenced their employment?
10. Can your labour recruiter describe what grievance mechanisms are available to migrant workers and how and when migrant workers can access them?

### Service agreement with labour recruiters

Once the employer has selected a labour recruiter, the employer is strongly encouraged to sign a service agreement with the labour recruiter, which includes the following information:

1. Description of the business arrangement (services provided by the labour recruiter);
2. Duration of contract (for example, is this a once off service or is there a retainer for services?);
3. The labour recruiter's fee, plus all recruitment related costs that are borne by the employer;
4. Provision for not charging recruitment fees and costs to migrant workers;
5. Provision for not collecting and withholding passports, bank books, bank cards, deeds to property, etc. from migrant workers;
6. Provision for the labour recruiter to check on the well-being of workers once they have started working at the hotel;
7. Provision for third-party stakeholders (when appropriate) to check the employer and/or labour recruiter are meeting all their legal obligations;
8. Requirement for both parties to disclose any subcontracting arrangements;
9. Provision for dealing with amendments to migrant worker's employment contracts (Noting that contracts cannot be changed to the detriment of the migrant worker);
10. Description of the grievance mechanisms available to migrant workers.

## Employment contracts for migrant workers

Employers will need to work closely with the labour recruiter to ensure that migrant workers are provided with an accurate, written employment contract prior to their departure from the country of origin. The employment contract should be straightforward and easy to understand and in a language understood by the migrant worker. The employment contract should comply with the law and include the following information:

- Name and address of the employer;
- Position of the worker;
- Job description;
- Job site (e.g. hotel);
- Commencement and duration of contract;
- Details of transportation to and from the country of destination;
- Details of accommodation and meals provided under the contract (if applicable);
- Union or other legal dues payable by the worker (if applicable);
- Wages and frequency of pay;
- Working hours and days of rest;
- Overtime rates;
- Vacation and other leave entitlements;
- All lawful deductions from pay;
- Benefits of employment;
- Conditions of early termination.

## Monitoring labour recruiters

It is important that employers monitor the practices of labour recruiters on an ongoing basis. Employers are strongly encouraged to seek feedback from migrant workers about their recruitment and employment experience. This can occur at different points of time, including when the migrant worker is first interviewed for the job at the hotel, during the migrant worker's induction at the hotel or after several months of the migrant worker being employed at the hotel.

Some key questions for employers to ask migrant workers include:

1. How did you find out about this job?
2. Who was involved in getting you this job?
3. Can you tell me about any fees or costs that you paid to get this job? What were they for? How much did you pay? Do you owe any money in relation to your recruitment?
4. What information was included in your employment contract?
5. When did you sign your contract and with whom?
6. Did you have to hand over your passport at any stage to the labour recruiter or any other party? If so, when, why and for how long?
7. What training did you receive prior to your job?

8. Can you describe your current accommodation? Who arranged this for you? Can you move freely? How much are you being charged in rent and does it align with rent for comparable accommodations?
9. How often does the labour recruiter check in with you?
10. If you had a complaint about your recruitment or employment experience, how would you raise it?

Employers should be mindful of the sensitivities associated with interviewing migrant workers. For example, some migrant workers may be fearful to speak up about recruitment related abuses for fear of losing their job or possible retributions from the labour recruiter. As such, employers should ensure that migrant workers can choose to raise complaints anonymously (see section on Grievance Mechanisms).

### 4.3 Working with business partners

As stated previously, it is challenging for hotels to ensure high labour standards are applied throughout their supply chains. An important first step is to identify which business partners (suppliers, employment agencies) pose a high risk to migrant workers through their recruitment practices. This requires hotels to carry out due diligence on all new and existing business partners. As part of this process, some key questions to ask business partners include:

#### Suppliers only:

1. How many migrant workers are employed, either directly or indirectly, in your business enterprise?
2. Do you use the services of labour recruiters and/or employment agencies?
3. What is your process for selecting and contracting labour recruiters and/or employment agencies?
4. Who within your business has oversight of the recruitment process?
5. What fees and costs do migrant workers need to pay as part of their recruitment? *(Noting that migrant workers should not pay any fees or costs related to their recruitment.)*

#### Employment agencies only:

1. Can you provide a copy of your licence(s) to provide recruitment and employment services?
2. Can you describe your business model and the services you provide? (e.g. advertising, screening, organizing documentation, travel, accommodation, paying wages, etc.)
3. Which countries do you source migrant workers from?
4. Who are your business partners in the country of origin and destination?
5. What recruitment fees and costs do you charge migrant workers? / What deductions do you make from migrant workers' pay? *(Noting that migrant workers should not pay any fees or costs related to their recruitment.)*

## Both suppliers and employment agencies:

1. What is your policy on document retention and withholding of passports? Do you provide a safe place for workers to store their passports? If so, how and when can they access this place? (*Noting that migrant workers should always have unhindered access to their documents.*)
2. Do you provide accommodation to migrant workers? If so, can you describe what the accommodation looks like and what the rules are for migrant workers residing there? How is the rent calculated that you charge and does it compare with other similar rented accommodation?
3. Do you provide migrant workers with a written employment contract, with comprehensive terms and conditions of employment? Is the contract written in a language they understand?
4. Can you describe what grievance mechanisms are available to migrant workers?
5. What due diligence do you do on your suppliers and other business partners?

The questions for suppliers could also be useful for MNEs wishing to learn more about how franchisees recruit migrant workers within their business operations.

Where possible, hotels should include specific clauses in their business contracts that support ethical recruitment. When this is not possible, hotels should still seek to influence the behaviour of their business partners by engaging them on the risks facing migrant workers and, where possible, working with them to overcome challenges.

### **4.4 Grievance mechanisms**

An effective grievance mechanism<sup>21</sup> can help a hotel monitor human rights risks, resolve disputes early, build trust with the workforce and meet the expectations of diverse stakeholders, such as international customers. While most hotels will already have a grievance mechanism in place, it may not be adequate to address recruitment related grievances.

Some practical suggestions for developing an effective grievance mechanism for migrant workers:

1. Decide if it is going to be run in house or in partnership with civil society (or another stakeholder).
  - The advantage of working with civil society is that it will bring more credibility to the grievance mechanism and ensure that migrant voices and perspectives are included.
2. Develop and implement clear procedures that set out how the mechanism will work, including:
  - How the mechanism can be accessed by migrant workers and their families as well as civil society, labour recruiters, suppliers and other business partners;

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<sup>21</sup> Refer to Principle 31 of the UNGP for the criteria for effective non-judicial grievance mechanism. United Nations, [Guiding Principles on Business and Human Rights](#) (2011).

- Types of complaints that can be made and the types of remediation that will be available;
  - Steps to ensure the confidentiality of workers who file grievances;
  - Steps to ensure the anonymity of grievances when requested by workers or in severe cases such as gender-based violence or in cases of trafficking, etc. (*Noting that in some cases anonymous grievances may limit the grievant's access to remedy*);
  - Roles and responsibilities for soliciting, receiving, investigating and resolving grievances;
  - Time frames for each step from investigation to resolution, communicating progress throughout the process;
  - Languages that are required to include the entire workforce;
  - Information channels to keep the grievant informed of the process;
  - How to capture lessons learned and prevent similar grievances from occurring again.
3. Ensure the mechanism is available to migrant workers during their recruitment, deployment, employment and after their return home or onward migration.
  4. Provide multiple channels for migrant workers to learn about the mechanism and file grievances.
  5. Share information about the mechanism with other business partners, such as recruiters or industry associations.
  6. Investigate allegations and respect the confidentiality of migrant workers when they wish to remain anonymous.
  7. Provide effective and prompt remediation where harm has been substantiated. Please see IOM's [Operational guidelines for Businesses on Remediation of Migrant-worker Grievances](#) for more information.
  8. Document the grievance handling and monitor the implementation of the remediation plan.
  9. Collect feedback from migrant workers, business partners, trade unions, civil society organizations and other actors participating in grievance mechanisms to ensure ongoing effectiveness.
  10. Learn from grievances to improve future business operations.

## 4.5 Joining forces and support

The risks facing migrant workers during recruitment are significant and cannot be addressed by any single stakeholder working in isolation. Rather, a collaborative effort is needed on the part of governments, civil society and the private sector.

Hotels/MNEs are encouraged to participate in business-led initiatives, such as the Sustainable Hospitality Alliance and multi-stakeholder initiatives, including IRIS: Ethical Recruitment and the

Leadership Group for Responsible Recruitment, to build awareness and create an industry-wide demand for ethical recruitment.

Where possible, hotels should also form relationships with trusted civil society organizations, including trade unions, to better identify and respond to the risks facing migrant workers.

As the UN Migration Agency, IOM is well placed to support the hospitality industry in facilitating dialogue between different private sector stakeholders (including labour recruiters), civil society and government agencies. IOM can also provide technical support to assist hotels in incorporating ethical recruitment principles into their business operations and supply chain. For more information, please contact [iris@iom.int](mailto:iris@iom.int).

# 5

## Useful resources

- IRIS Standard on Ethical Recruitment
- Sustainable Hospitality Alliance Principles of Forced Labour
- ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Costs
- UN Guiding Principles on Business and Human Rights
- OECD Guidelines for Multinational Enterprises
- OECD Due Diligence Guidance for Responsible Business Practice
- ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
- Verité Fair Hiring Toolkit
- CREST Migrant Workers Guidelines (forthcoming)
- ILO and IHRB Promoting Fair Recruitment and Employment: Guidance Tool for Hotels in Qatar

# 6

## Terminology<sup>22</sup>

**(Recruitment) business partners:** entities with which a company (business enterprise) has some form of direct and formal engagement for the purpose of recruitment activities.<sup>23</sup>

**Country of destination:** the destination for a person or a group of persons, irrespective of whether they migrate regularly or irregularly.

**Country of origin:** a country of nationality or of former habitual residence of a person or group of persons who have migrated abroad, irrespective of whether they migrate regularly or irregularly.

**Debt bondage:** the status or condition arising from a pledge by a debtor of his or her personal services or those of a person under his or her control as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.<sup>24</sup>

**Discrimination:** any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, gender, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.

**Due diligence:** an ongoing risk management process that a reasonable and prudent business enterprise needs to follow in order to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts. It includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.<sup>25</sup>

**Exploitation:** the act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one's own benefit.

**Employment agent/agency:** any natural or legal person who provides services consisting of hiring or engaging migrant workers to make them available to a third party (see “end-user employer” below) that assigns tasks and supervises the execution of these tasks.<sup>26</sup>

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22 IOM, *Glossary on Migration* (Geneva, 2019). Unless otherwise noted, definitions given in this section are drawn from this Glossary.

23 IRIS Standard.

24 IOM Glossary on Migration; Adapted from the *United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Abolition of Practices Similar to Slavery* (266 UNTS 3, adopted 30 April 1956, entered into force 30 April 1957), art. 1(a).

25 United Nations Guiding Principles Reporting Framework, summarizing the United Nations Guiding Principles on Business and Human Rights.

26 IRIS Standard.

**Employer:** a person or an entity that engages employees or workers, either directly or indirectly.<sup>27</sup>

**End-user employer:** also referred to as a “user enterprise”; a business enterprise that contracts the services of an employment agency, which in turn provides the services of an agency worker. The end-user employer usually supervises the work and it is normally performed on its premises; however, the end-user employer is not party to the employer–employee contract, or responsible for payment of wages directly to the worker.<sup>28</sup>

**Forced labour:** work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.<sup>29</sup>

**Grievance:** a perceived injustice evoking an individual’s or a group’s sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities.<sup>30</sup>

**Grievance mechanism:** any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought.<sup>31</sup>

**Labour migration:** movement of persons from one State to another, or within their own country of residence, for the purpose of employment.

**Labour recruiter:** any natural or legal person who performs a licensed recruitment function, including recruitment agents and employment agents.<sup>32</sup>

**Migrant worker:** a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which that person is not a national.

**Migration:** the movement of persons away from their place of usual residence, either across an international border or within a State.<sup>33</sup>

**Pre-departure orientation programmes:** courses designed to help prospective migrants acquire the knowledge, skills and attitudes needed to facilitate their integration into the country of destination. They also address expectations and provide a safe environment in which to answer migrants’ questions and concerns.

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27 ILO, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs* (Geneva, 2019).

28 IRIS Standard.

29 ILO, *CO29 – Forced Labour Convention* (39 UNTS 55, 1930), art. 2(1).

30 United Nations, *Guiding Principles on Business and Human Rights* (2011).

31 *Ibid.*

32 IRIS Standard.

33 United Nations, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (2220 UNTS 3, adopted 18 December 1990, entered into force 1 July 2003), art. 2(1).

**Recruitment:** includes the advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of origin where applicable. This applies to both jobseekers and those in an employment relationship.<sup>34</sup>

**Recruitment fees and costs:** any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection.<sup>35</sup>

**Remedy:** the (legal) processes aimed at redressing the violation of a right, as well as the substantive outcome of such a process.

**Subagent:** informal and unlicensed individual agents who, working in usually loose partnerships with labour recruiters, are often the first point of contact for individuals seeking foreign employment. Subagents charge fees for their services, which distinguishes them from other individuals within “social networks” that facilitate migration without charging fees.<sup>36</sup>

**Subcontractor:** a person or business (operating as a registered entity) which has a contract (as an “independent contractor and not an employee”) with a contractor (labour recruiter) to provide some portion of the work or services on a project which the contractor has agreed to perform. The subcontractor is paid by the contractor for the services provided.<sup>37</sup>

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34 ILO, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs* (Geneva, 2019).

35 Ibid.

36 IRIS Standard.

37 Ibid.

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