

ELIMINATING WORKER-PAID RECRUITMENT FEES AND RELATED COSTS

A Practical Step-by-Step Guide for Retailers, Brands, Employers and Labour
Providers in Global Supply Chains



PREPARED FOR THE RESPONSIBLE RECRUITMENT TOOLKIT (RRT) IN 2019 BY:

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This toolkit is a free resource available to registered users at: **ResponsibleRecruitmentToolkit.org**. We very much welcome your comment and input on this toolkit. Please address all feedback and any queries to: **info@responsiblerecruitmenttoolkit.org**

SUPPORTING ORGANISATIONS

We would like to thank the following organisations who have all inputted to support the development of this third edition and helped to shape the developments and improvements herein.



Association of Labour Providers (ALP)

The ALP is a specialist UK-based trade association promoting responsible recruitment practices for labour recruiters and providers supplying the workforce to the consumer goods supply chain.



British Retail Consortium (BRC)

BRC is the go-to trade association for all UK retailers. BRC's Better Retail Better World is mobilising the retail industry to meet some of the biggest global challenges of the coming decades highlighted by the UN, including responsible recruitment.



Clearview

Clearview is a global labour provider certification scheme whose objective is to drive responsible recruitment practice in supply chains.



Food Network for Ethical Trade (FNET)

FNET was established in 2016 by a number of major UK food companies to improve human rights in global food supply chains through a common approach to managing ethical trade.



Institute for Human Rights and Business (IHRB)

Founded in 2009, IHRB is the leading international think tank on business and human rights. IHRB's mission is to shape policy, advance practice and strengthen accountability in order to make respect for human rights part of everyday business.



International Organization for Migration (IOM)

IOM, the UN Migration Agency, is the leading global inter-governmental organisation in the field of migration. IOM is dedicated to promoting humane and orderly migration for the benefit of all.



Sedex

Sedex is a global membership organisation. Home to one of the world's largest collaborative platforms for sharing responsible sourcing data on supply chains, Sedex is used by more than 50,000 members in over 150 countries.



Stronger Together

Stronger Together is a multi-stakeholder initiative aiming to reduce modern slavery, particularly hidden forced labour, labour trafficking and other third-party exploitation of workers.

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EXECUTIVE SUMMARY

There are costs associated with providing the range of services integral to recruiting workers, including advertising and sourcing workers, processing applications, interviewing, worker documentation, skills assessment, placement, orientation, transportation – within or across borders – to the place of work and training on arrival. These costs are often passed on to jobseekers and workers, including through hidden fees and services, for example:

- Exploitative mark-ups paid to various agents, brokers and middlemen involved in the recruitment process;
- Fees for so-called optional services, which are in fact integral to the recruitment process or where workers are misled or coerced into taking out such services (e.g. health insurance and translation services);
- Security deposits or bonds, which act as ‘runaway insurance’.

Jobseekers may be forced to pay such costs under coercion, or may do so willingly, desperate to find work. Jobseekers and workers are often not provided with receipts for payments made, or may be given fraudulent documentation which vastly understates the amounts paid. If the fees are large, jobseekers may take out a loan and be forced to work for months or years just to pay off exorbitant rates of interest. Migrant workers and especially those recruited across borders are particularly vulnerable to these abusive recruitment and employment practices.

Workers in debt are vulnerable to further exploitation such as forced labour and modern slavery, as they may be under threat from those they owe the debt to. Eliminating recruitment fees and related costs charged to workers is therefore one of the crucial ways that companies can ensure slavery-free supply chains.

Workers who do not pay fees are likely to be better matched or qualified to the jobs on offer, compared to workers willing or coerced to pay high fees. Once in the job, workers without recruitment debt are likely to be happier, more productive, resulting in improved employee engagement and lower long-term recruitment/onboarding costs.¹

Momentum on this issue is building. More and more businesses and industry groups are making public commitments on eliminating worker-paid recruitment fees and seeking to take steps towards making their supply chains more transparent and accountable. Likewise, more and more companies are implementing remediation programmes for workers who have paid recruitment fees and related costs, focused on removing workers from conditions of debt bondage and forced labour through the reimbursement of recruitment fees and other forms of remedy.

For example:

- The Leadership Group for Responsible Recruitment’s **Employer Pays Principle** which stipulates that ‘**No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.**’
- The Consumer Goods Forum **Priority Industry Principles** which stipulate that:
 - Every worker should have freedom of movement
 - No worker should pay for a job
 - No worker should be indebted or coerced to work.
- British Retail Consortium’s **Better Retail Better World** campaign where, amongst other targets, leading retailers have committed to ‘**embedding a policy that no worker should pay for a job**’.
- The **ILO Global Business Network on Forced Labour**, which in 2019 produced a repository of industry definitions of recruitment fees and costs.¹

1. https://flbusiness.network/wp-content/uploads/GBNFL_Comparison-RC_RF_FINAL-1-1.xlsx

A number of organisations are calling for the whole supply chain to take responsibility for the costs of recruitment as the burden shifts away from workers.

Governments around the world are also taking action. In October 2018, the UK, US, Canadian, Australian and New Zealand Governments announced Common Principles for Tackling Modern Slavery in Supply Chains. Principle 3 states:

“Governments should advance responsible recruitment policies and practices including by implementing policies that incentivize and support responsible practices, and by supporting initiatives such as the ‘Employer Pays Principle’. Governments can also contribute to the growing knowledge base of promising practices for protecting workers from fraud and exploitation in the recruitment process.”

In March 2019, the ILO Governing Body approved the publication and dissemination of the definition of recruitment fees and related costs², adopted by a Tripartite Meeting of Experts, held in Geneva in November 2018, to be read with the ILO’s General Principles and Operational Guidelines for Fair Recruitment. The ILO definition states that recruitment fees and related costs should not be borne by workers or jobseekers.

To ensure that workers do not pay recruitment fees and related costs, brands, retailers, labour providers, labour users and employers will all need effective systems including:

- Public commitment to the Employer Pays Principle with senior-level accountability
- Transparency throughout the labour supply chain on recruitment fees and costs incurred with the burden of proof on employers/labour users to demonstrate that they have paid all recruitment fees and related costs, rather than the worker having to present receipts to be reimbursed. Businesses should ensure that the real costs of recruitment can and are factored into tendering and contract negotiation so as to be realistically covered by employers/labour users
- An assessment of the risks of workers paying recruitment fees and related costs in supply chains and action to mitigate these risks, including training for relevant staff and clear communication to workers throughout the recruitment journey that they are not required to pay any recruitment fees
- Effective, safe and user-friendly grievance mechanisms to enable workers to comfortably report where they have been charged recruitment fees linked to genuine remediation and reimbursement programmes
- Ongoing due diligence and monitoring to make sure no fees are paid by workers at any point throughout the recruitment and placement process and that recruitment fees are reimbursed where workers have paid them.

To effectively embed these systems, ResponsibleRecruitmentToolkit.org promotes a six-step UN Guiding Principles framework relevant for Brands and Retailers (BR), Labour Users (LU), Direct Employers (EM) and Labour Providers (LP):

- **Step 1:** Commit to the Employer Pays Principle
- **Step 2:** Assess the risk of workers paying recruitment fees in your supply chains
- **Step 3:** Act to eliminate fee-charging and tackle debt bondage
- **Step 4:** Provide remedy where workers are found to have paid recruitment fees
- **Step 5:** Monitor effectiveness of policies, actions and remedy
- **Step 6:** Communicate on effectiveness and share lessons learned about best practice

2. https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536755.pdf

THE PURPOSE OF THIS TOOLKIT

Chapter 1

Purpose

This toolkit provides a framework, pragmatic steps and guidance for responsible businesses to eliminate the charging of recruitment fees and related costs to workers in their global supply chains³ by working towards one clear premise - ‘The Employer Pays Principle’⁴

The Employer Pays Principle: “No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.”

By implementing the good practice in this toolkit, businesses will:

1. Demonstrate their commitment to eliminating all recruitment fees and related costs charged to workers in their operations and supply chains, and to ensuring workers are swiftly reimbursed if they are found to have paid recruitment fees.
2. Show employees, customers, clients, investors, shareholders, non-governmental organisations (NGOs), governments and other stakeholders that their business has implemented the necessary management systems to identify and mitigate this key modern slavery risk in their operations and supply chains.

Who is this toolkit for?

This toolkit has been written to support brands, retailers, public sector buyers, employers, labour users, and labour providers of all sizes, and in all industries, to implement standards and necessary systems to eradicate charging of fees to workers in their operations and supply chains. The following definitions apply:

- **Brands and Retailers:** The companies at the top of the supply chain in any sector, purchasing products and services from suppliers, contractors and service providers which act as direct employers and labour users (see below). Many brands and retailers will also be direct employers and labour users themselves, sourcing workers into their own operations.
- **Direct employers:** Businesses that are recruiting workers directly, using their own internal recruitment staff, without contracting the services of a labour provider.
- **Labour user:** An organisation that uses workers supplied by labour providers and where the labour user or labour provider assigns their tasks and supervises the execution of these tasks. A labour user may be known variously by terms such as employer, labour user, hirer, end-user or client.

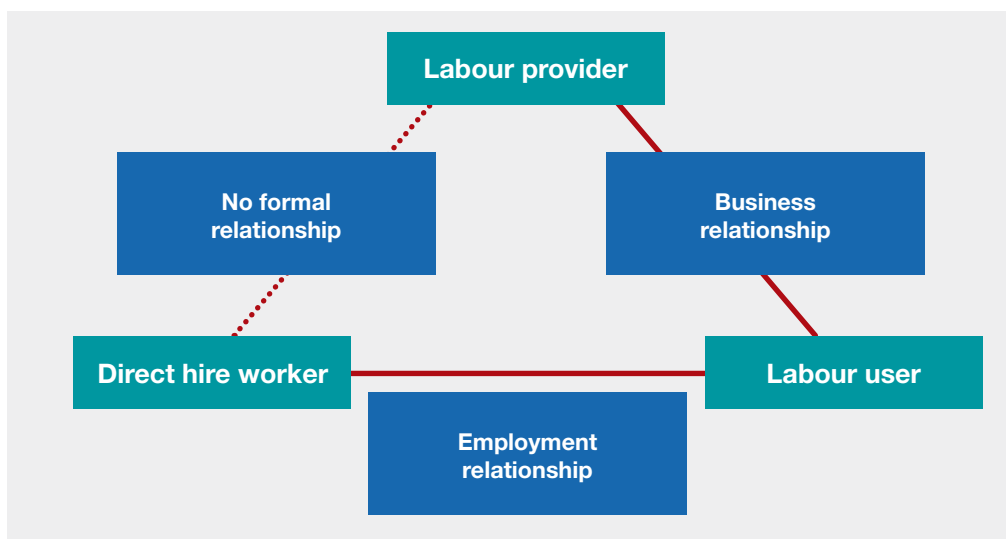
3. Supply chains include: an organisation's direct ‘first tier’ suppliers, an organisation's indirect ‘second and subsequent tier’ suppliers – right back to the primary agricultural and extractive stages, labour providers and labour sourcing agents at all levels of the supply chain, services used, such as catering, security, office cleaning and in the logistics and distribution of products, such as transport, shipping warehousing and final delivery, and contracting-out businesses that provide manned services to the organisation's direct and indirect suppliers.

4. www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment

- **Labour Provider:** An organisation whose principal purpose is to source and supply jobseekers and workers. Labour providers can range from one-person on their own to multinational firms, and may be referred to by various terms such as recruitment agency, labour broker, labour contractor, labour recruiter, labour hire company, gangmaster, employment business, private employment agency, temporary employment services provider or agency. Labour users may contract with labour providers via one of two main business relationships (see Appendix 10 for other definitions):

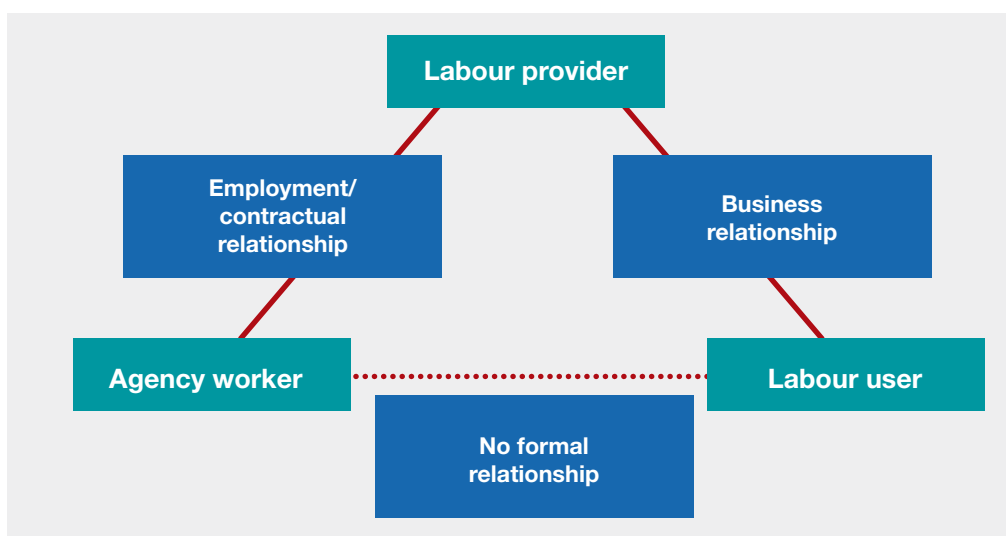
1. Recruitment services relationship

In a recruitment services relationship, the labour provider is responsible for recruiting workers who will then be directly employed by the labour user.



2. Employment services relationship

In an employment services relationship, the labour provider is responsible for recruiting workers and placing them on a temporary or ongoing basis with the labour user. The worker is engaged or employed by the labour provider, who is responsible for workers' payment and fulfilling other terms and conditions of their contract. The labour user is responsible for assigning tasks to workers with varying degrees of supervision, direction and control.



Committing to Responsible Recruitment Principles and Practices

This toolkit focuses on supporting businesses to eliminate the charging of recruitment fees and related costs to workers. This is one crucial part of a responsible approach to recruitment and labour supply. Increasingly, businesses will also be asked to demonstrate how they are recruiting responsibly across a range of responsible recruitment standards.

A comprehensive review of relevant international social compliance standards and codes⁵, produces 27 different standards of ethical and professional recruitment and labour supply:

1. Business structure is appropriate	15. Benefits are provided*
2. Ethical standards are embedded	16. Working time is not excessive*
3. Labour supply chain due diligence	17. Work is safe*
4. Personal data is protected	18. Accommodation is safe and hygienic*
5. No recruitment fees are paid by workers	19. Transport is safe*
6. Recruitment is transparent	20. Freedom of association is respected
7. Local recruitment is promoted	21. Opportunity & treatment is fair & equal
8. No child labour	22. No mistreatment is allowed*
9. Legal eligibility to work is established	23. Access to remedy is ensured*
10. Imposters & hidden workers are prevented*	24. Conduct & capability is managed*
11. Employment status is recognised & appropriate*	25. Employment opportunities are not prevented*
12. Wages are paid fairly & properly*	26. Termination rights are provided*
13. Employment taxes are paid*	27. No forced labour
14. Holiday entitlement is provided*	

**Apply to employment services labour providers only.*

ResponsibleRecruitmentToolkit.org (RRT) supports businesses along the journey to ethical and professional recruitment and labour supply:

- ✓ **LEARN:** Ensure you fully understand responsible recruitment and labour supply best practice using our range of online and face-to-face training.
- ✓ **IMPROVE:** Self assess your business's recruitment practices and share progress with clients using our interactive online tool which provides extensive downloadable resources and step-by-step guidance.
- ✓ **GAIN RECOGNITION:** Demonstrate your achievement to clients by undertaking an independent audit or achieving third-party certification.

Register for free at ResponsibleRecruitmentToolkit.org and start your journey today.

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Supporting professional and ethical recruitment and labour supply

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5. Including the International Organisation for Migration IRIS Standard, International Labour Organisation's international labour standards, global guidance and Fair Recruitment Initiative, Ethical Trading Initiative Base Code and the Global Social Compliance Programme reference code.



INTRODUCTION TO FEE CHARGING

Chapter 2

What's the issue?

Labour providers operate throughout global supply chains, recruiting and supplying workers into businesses in all sectors, often across borders. There are costs associated with providing the range of services integral to recruiting workers, including advertising for and sourcing workers, processing applications, interviewing, worker documentation, worker assessment, placement, orientation, transportation to the country of work and training on arrival.

Currently, the dominant business model in many countries is to pass on some or all of these costs to workers, often at inflated rates, and sometimes through the use of hidden fees and services, for example:

- Exploitative mark-ups paid to various agents, brokers and informal middlemen, headmen and supervisors, involved in the recruitment process;
- Fees for so-called optional services, which are in fact integral to the recruitment process or where workers are misled or coerced into taking out such services (e.g. personal accident insurance);
- Security deposits or bonds, which act as 'runaway insurance'.

Jobseekers may be forced to pay such costs under coercion, or may do so willingly, desperate to find work. They are often not provided with receipts, or may be given fraudulent documentation which vastly understates the amounts paid. If the fees are large, jobseekers may have to resort to borrowing money from family, a local moneylender or the recruitment agent, who often charge exorbitant rates of interest on the loans. Ultimately, this can leave workers in situations of debt bondage where they are essentially trapped into the debt and their job until they can pay off the loan and the interest associated with it, which can take months or even years.

Eliminating the charging of recruitment fees to workers is a fundamental action that companies working towards slavery-free supply chains must implement.

Who is most at risk?

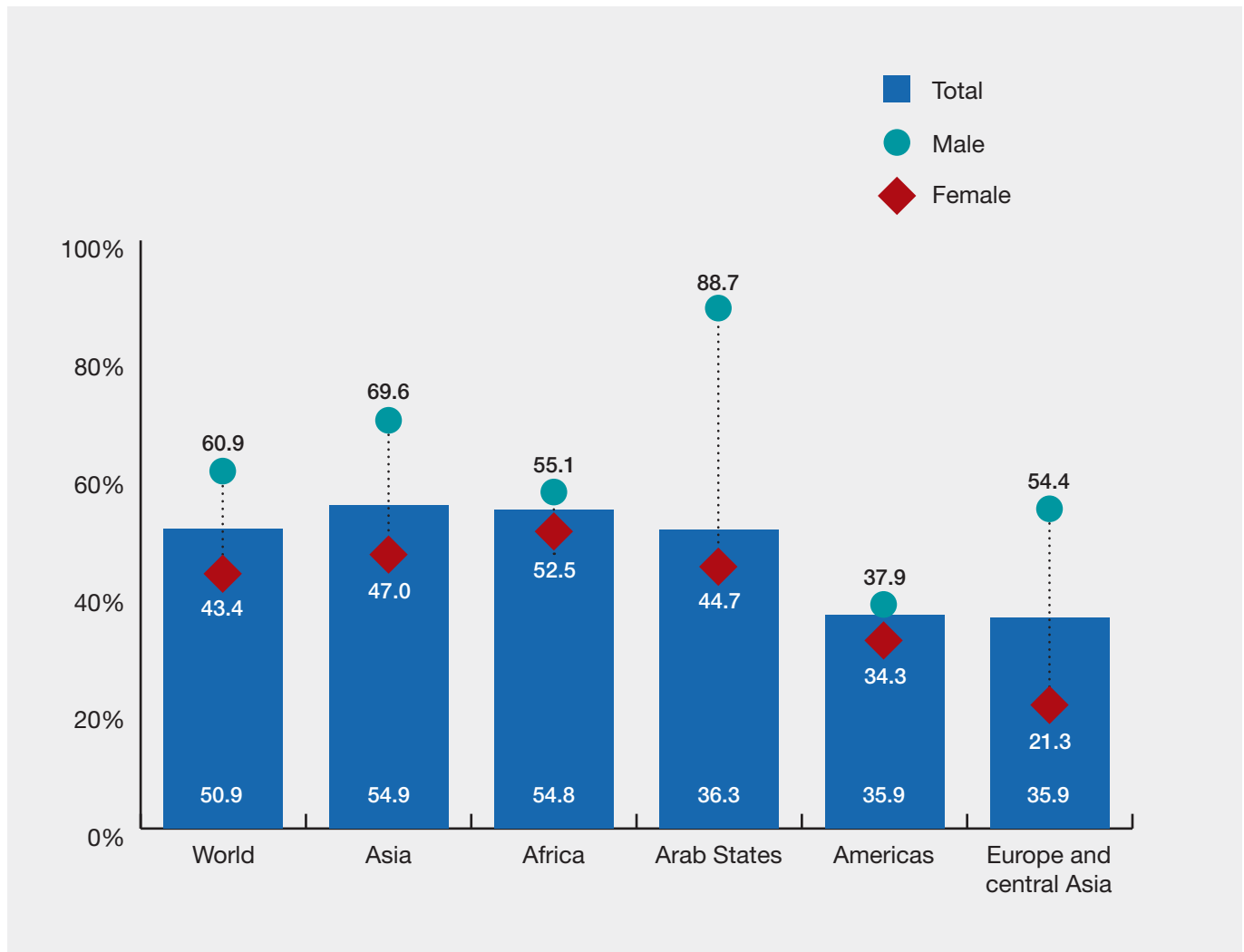
Migrant workers and especially those recruited across borders are particularly vulnerable to these abusive recruitment and employment practices. Common factors that increase workers' vulnerability include:

- Migrant workers who lack the language or cultural knowledge of the destination country in which they are to be employed. Without any support networks of friends and family in the destination country, social isolation can leave workers exposed to abuse and unaware of remedies that they could access
- Migrant workers often don't have a clear employment contract detailing their terms and conditions in a language they can understand
- Migrant workers may be deceived through false promises of good wages, benefits and other employment conditions to convince them to pay for the job
- Where immigration or employment visas are sponsored by one particular employer and/or no change of employer is allowed in national regulations or legislation then, in effect, the migrant worker is legally tied to that employer if he or she wants to remain in the country, with little or no power to challenge abusive employment conditions
- The practice of charging recruitment fees to migrant workers may be so entrenched that workers accept this as a normal practice and are led to believe that the higher the fees they pay, the better the job they will secure in the destination country
- Some migrant workers are simply so vulnerable and desperate to find work that they resign themselves and pay any recruitment fees imposed on them.

How common is exploitative fee charging to workers?

“Debt bondage, through the manipulation of debt by employers or recruiting agents affected more than half of all victims of forced labour exploitation” Alliance 8.7.³

A 2017 report from the UN-backed Alliance 8.7 stipulates that “just over half the men and women in forced labour exploitation worldwide were held in debt bondage”, equating to around 8.14 million people. The figure rises to more than 70 per cent of the total for adults forced to work in agriculture, domestic work, or manufacturing. According to the report, these estimates likely reflect a mix of cases of both traditional forms of bonded labour⁴ and newer forms of debt bondage, where recruitment fees and agency charges become the debt that binds.



Alliance 8.7, Global Estimates of Modern Slavery, 2017

6. Alliance 8.7, Global Estimates of Modern Slavery: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf

7. Where workers provide work or services to a landlord or employer in exchange for a monetary advance and incur restrictions on their freedom of movement or occupation until this debt has been worked off (Alliance 8.7 Global Estimates of Modern Slavery 2017).

What are the impacts of recruitment fees on workers, their families and their communities?

Once in a situation of debt bondage, the negative impacts on workers can be numerous and far-reaching. Workers can be trapped in a permanent state of forced labour where the levels of debt are unrepayable. Even in less extreme circumstances which don't amount to debt bondage, for example where a worker pays a few hundred dollars out of savings to secure a job, the impact on workers' quality of life can still be significant. **See Appendix 1: Global Case Studies of Recruitment Fees and Debt Bondage** for stories and examples of how recruitment fees have affected workers around the world.

Impact on health, wellbeing and safety

- Workers feel compelled to take on excessive overtime to repay debts which can lead to physical health problems and impact on productivity.
- The stress of repayment can take its toll on workers' emotional wellbeing with workers feeling shame, guilt or despair that they have got into this position. This can lead to anxiety and depression and in the worst cases, suicide.
- Workers feel compelled to agree to more dangerous jobs to repay their debts, and sometimes even take on jobs as brokers themselves.

Limited rights

- Workers are less able to assert their rights or bargain for better pay.
- Workers feel unable to report poor working and living conditions.
- Workers feel unable to leave the job and country due to the debt owed or security deposit in place.

Risks of non payment/ escaping

- Threats of and actual physical violence if workers try to leave without repayment.
- Workers who try to escape may risk their migration status and could face detention or deportation.
- They may end up in even worse living and working conditions within informal businesses.

Impact on families and communities

- Workers who are forced to pay back huge loans with interest may not be able to send home remittances to support their families as they had intended.
- Family or other community members may have supported the worker to pay the recruitment fees or take out loans (e.g. offering collateral). If the worker fails to repay the debt this can have severe personal, financial and social consequences for the worker.

Who should pay for the cost of recruitment?

As momentum for ensuring zero-cost recruitment for workers builds, businesses are seeking guidance on whose responsibility it is to assume these costs. The Employer Pays Principle stipulates that the costs of recruitment should be borne not by the worker but by the employer.

Many employers, labour users, labour providers and civil society organisations have raised the importance of the whole supply chain, including brands and retailers taking responsibility for assuming the increased cost to business of recruitment as the burden of cost shifts away from workers. Civil society organisations are clear that without this recognition from brands and retailers, there could be unintended consequences whereby suppliers have to find others ways to meet the additional costs.

NGO Electronics Watch describes this as “Equitable Burden”⁸ noting that:

- “The burden of zero cost recruitment should be shared fairly and equitably between buyers, employers, and recruitment agencies through standard contractual accountability mechanisms.
- “Recruitment agencies should not have to invest capital to recruit migrant workers at zero cost and then have to wait extensive periods of time for payment for their services.”

This requires transparency of labour costs throughout the supply chain, with each party working with their clients and business partners to agree a sustainable price which supports them to cover the costs of recruitment so these are not passed on to workers, and for these costs to be factored into tenders and contract negotiations.

In practice, this may mean that buyers, retailers and ultimately consumers see an increase in the cost of goods if they were previously produced by workers that were paying recruitment fees. However, a crucial aspect of eliminating recruitment fees is also about ensuring that the whole labour supply chain is transparent and as efficient and streamlined as possible, only involving agents, brokers and middlemen that truly add value. Any efficiencies created may help to offset any increase in cost from shifting the burden of recruitment fees away from workers. In Chapter 3, we discuss complexity in labour supply chains and the need for transparency and formalisation in more detail.

The question of ‘who pays’ is also relevant when considering the repayment of any recruitment fees found to have been paid by workers. See ‘Chapter 6: Step 4: REMEDY’ for guidance on agreeing respective organisations’ responsibilities for the reimbursement of recruitment fees.



8. http://electronicswatch.org/guidance-for-remediation-and-prevention-of-migrant-worker-recruitment-fees-and-related-costs-in-public-procurement-april-2019_2557767.pdf



WHAT ARE THE MODELS OF RECRUITMENT AND EMPLOYMENT IN SUPPLY CHAINS?

Chapter 3

The charging of recruitment fees and related costs to workers is able to prevail, not only because of the vulnerability of migrant workers to exploitation, but also due to the complexity of labour-recruitment models. Recruitment channels often involve numerous parties, in many cases through informal relationships where terms and conditions are poorly defined, which can make exploitative practices difficult to monitor and detect.

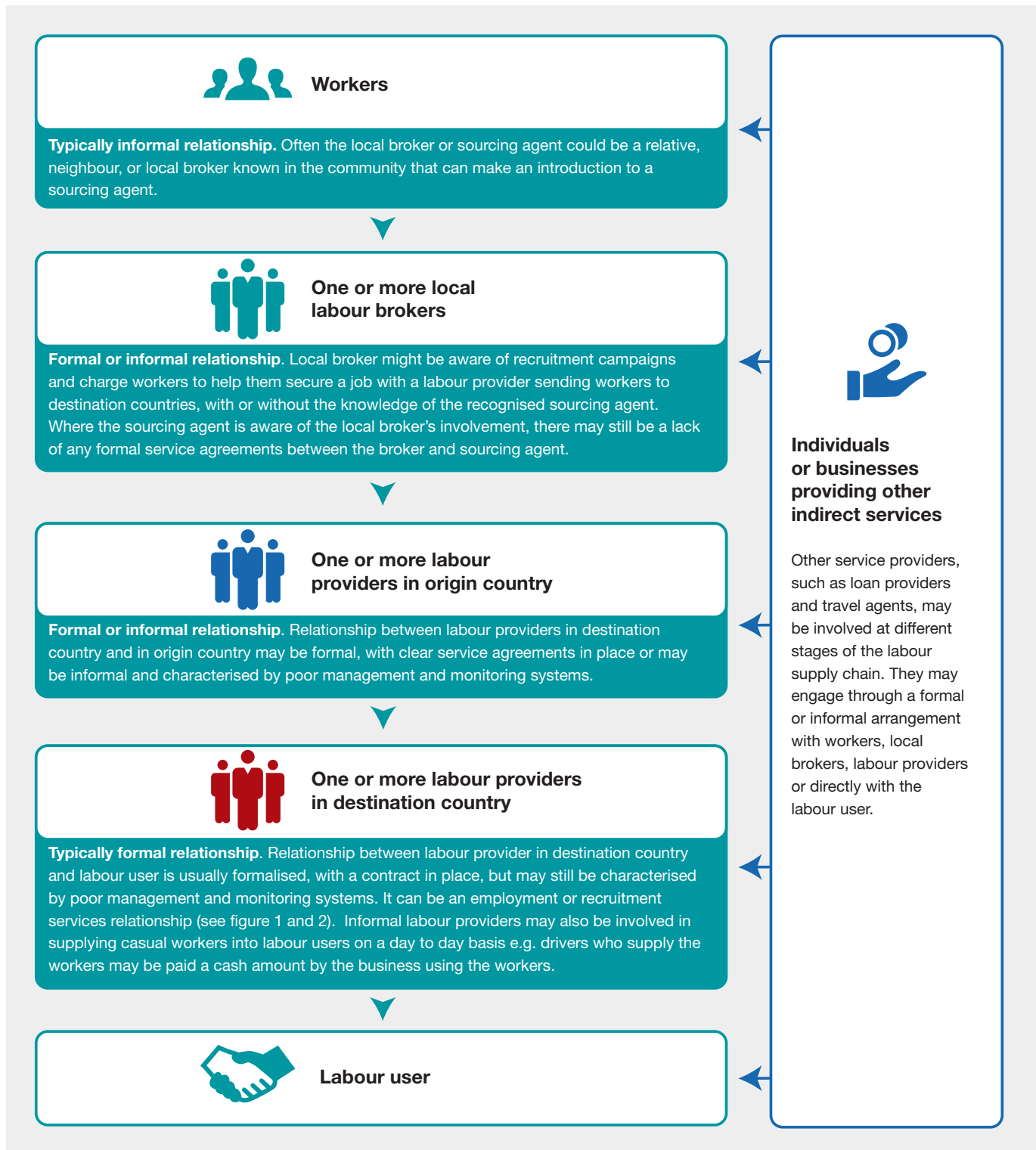
Informality and complexity in recruitment

Labour providers can range from one-person on their own to multinational firms offering recruitment and/or employment services to labour users (see Chapter 1 for definitions). Larger labour providers may also offer additional services including managing the international migration process (e.g. transport, accommodation, visas). While large, global labour providers can more easily recruit a migrant worker from one country and place him or her in employment in another without needing to sub-contract or use any recruitment intermediaries, for smaller labour providers based in one country, this is not possible.

Indeed, there can be many tiers of subcontracting in recruitment channels, involving agents, sub-agents, brokers and middlemen, operating with or without written contracts and from cities to towns, villages or isolated regions of countries with challenging terrains. Smaller labour providers may also contract with agencies abroad to manage international recruitment processes.

In certain countries and sectors the day to day supply of workers is sometimes conducted by informal brokers and middlemen. For instance, a local village leader may charge workers to introduce them to a job opportunity or a driver who supplies workers may be paid a cash amount by the labour user. In such cases, the labour providers have no recognised business structure, there is no formal business relationship and these brokers may or may not be providing a useful service in the labour supply chain. Very often, informal recruitment actors may be operating illegally under respective legislation in countries of origin, transit and destination. Where such informal arrangements are allowed to exist in supply chains there can be little monitoring of the conditions that the workers are supplied under or the possible exploitation that these workers are facing. The diagram on the following page illustrates the complexity of current labour sourcing and supply models involving various actors at different points in the labour supply chain.

Prevalent models of labour recruitment and supply



Moving to transparent, formalised and professional recruitment and labour supply

A key step towards eliminating recruitment fees is to map the labour supply chain right through from workers' communities to the workplace determining:

- Which parties are involved in the labour supply chain, including labour users, labour providers and any intermediary sub-agents, brokers and any other business partners providing recruitment related services (e.g. medical facilities, visa facilitation centres, vocational/skills certification facilities, travel/ticketing agencies, etc;
- Whether the labour providers and intermediaries have the appropriate licences to trade or permission to operate;
- Whether there are appropriate terms of engagement in place at each stage in the labour supply chain;
- Where there is any use of informal recruitment intermediaries, brokers or middlemen, assessing if these businesses provide distinct value to the recruitment process, and if so, working together to formalise the relationship, in line with relevant legal and regulatory requirements.

There is further guidance on this in 'Chapter 5, Step 2: ASSESS'. There will need to be a continuing focus on the professionalisation of labour provision through the adoption of internationally recognised responsible recruitment standards¹⁰ supported by independent auditing and certification.¹¹



10. <https://responsiblerecruitmenttoolkit.org/about-rrt/>

11. <https://responsiblerecruitmenttoolkit.org/gain-recognition/>



DEFINING RECRUITMENT FEES AND RELATED COSTS

Chapter 4

In previous editions of this Guide, we have aligned our comprehensive definition of recruitment fees with international guidelines¹², legislation¹³ and best practice from the business sector.¹⁴ In March 2019, the ILO Governing Body approved the publication and dissemination of the definition of recruitment fees and related costs¹⁵, adopted by a Tripartite Meeting of Experts, held in Geneva in November 2018, to be read with the ILO's General Principles and Operational Guidelines for Fair Recruitment. The ILO definition states that recruitment fees and related costs should not be borne by workers or jobseekers. This represents the first globally accepted, comprehensive definition of recruitment fees and related costs, and as such we have updated our definition to align with the ILO.

ILO Definition of Recruitment Fees and Related Costs

- The terms 'recruitment fees' or 'related costs' refer to 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.
- Recruitment fees or related costs should not be collected from workers by an employer, their subsidiaries, labour recruiters or other third parties providing related services. Fees or related costs should not be collected directly or indirectly, such as through deductions from wages and benefits.
- The recruitment fees and related costs considered under this definition should not lead to direct or indirect discrimination between workers who have the right to freedom of movement for the purpose of employment, within the framework of regional economic integration areas.

***ILO General Principles and Operational Guidelines for Fair Recruitment
and Definition of Recruitment Fees and Related Costs***

In Table 1, we itemise the various recruitment fees and related costs as defined by the ILO. As in previous editions of this Guide, we have added our own numbering system, to support businesses, auditors and consultants to classify costs in the recruitment process in their own reporting systems.

12. ILO General Principles and Operation Guidelines for fair recruitment

13.(US) Federal Acquisition Regulation: Combating Trafficking in Persons

14.International Organisation for Migration - International Recruitment Integrity Standard, United National Global Compact and Verite - Brief on Eliminating Recruitment Fees Charged to Migrant Workers), IHRB and the Leadership Group for Responsible Recruitment – Brief on Migrant Workers Recruitment Fees and Responsible Business Alliance - RBA Trafficked and Forced Labor – "Definition of Fees"

15.https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536755.pdf

Table 1: ILO definition of recruitment fees and related costs**1. Recruitment fees****1. Recruitment Fees include:**

- 1.1 Payments for recruitment services offered by labour recruiters, whether public or private, in matching offers of and applications for employment
- 1.2 Payments made in the case of recruitment of workers with a view to employing them to perform work for a third party
- 1.3 Payments made in the case of direct recruitment by the employer; or
- 1.4 Payments required to recover recruitment fees from workers.
- 1.5 These fees may be one-time or recurring and cover recruiting, referral and placement services which could include:
 - 1.5.1. Advertising,
 - 1.5.2. Disseminating information,
 - 1.5.3. Arranging interviews,
 - 1.5.4. Submitting documents for government clearances,
 - 1.5.5. Confirming credentials,
 - 1.5.6. Organizing travel and transportation, and
 - 1.5.7. Placement into employment.

2. Related costs

Related costs are expenses integral to recruitment and placement within or across national borders, taking into account that the widest set of related costs are incurred for international recruitment. These costs are listed below and may apply to both national and international recruitment. Depending on the recruitment process and the context, these cost categories could be further developed by the governments and the social partners at the national level. It is recognized that the competent authority has flexibility to determine exceptions to their applicability, consistent with relevant international labour standards, through national regulations, and after consulting the most representative organizations of workers and employers. Such exceptions should be considered subject, but not limited, to the following conditions:

- they are in the interest of the workers concerned;
- they are limited to certain categories of workers and specified types of services;
- the corresponding related costs are disclosed to the worker before the job is accepted.

Table 1: ILO definition of recruitment fees and related costs - continued

When initiated by an employer, labour recruiter or an agent acting on behalf of those parties; required to secure access to employment or placement; or imposed during the recruitment process, the following costs should be considered related to the recruitment process:	2.1 Medical costs: payments for medical examinations, tests or vaccinations;
	2.2 Insurance costs: costs to insure the lives, health and safety of workers, including enrolment in migrant welfare funds;
	2.3 Costs for skills and qualification tests: costs to verify workers' language proficiency and level of skills and qualifications, as well as for location-specific credentialing, certification or licensing;
	2.4 Costs for training and orientation: expenses for required trainings, including on-site job orientation and pre-departure or post-arrival orientation of newly recruited workers;
	2.5 Equipment costs: costs for tools, uniforms, safety gear, and other equipment needed to perform assigned work safely and effectively;
	2.6 Travel and lodging costs: expenses incurred for travel, lodging and subsistence within or across national borders in the recruitment process, including for training, interviews, consular appointments, relocation, and return or repatriation;
	2.7 Administrative costs: application and service fees that are required for the sole purpose of fulfilling the recruitment process. These could include fees for representation and services aimed at preparing, obtaining or legalizing workers' employment contracts, identity documents, passports, visas, background checks, security and exit clearances, banking services, and work and residence permits.

Enumeration of related costs in this definition is generalised and not exhaustive. Other related costs required as a condition of recruitment could also be prohibited.

These costs should be regulated in ways to respect the principle of equality of treatment for both national and migrant workers.

3. Illegitimate, unreasonable and undisclosed costs

Extra-contractual, undisclosed, inflated or illicit costs are never legitimate. Anti-bribery and anti-corruption regulation should be complied with at all times and at any stage of the recruitment process. Examples of such illegitimate costs include the following where required by any actor in the recruitment chain:	3.1 Bribes, tributes, extortion or kickback payments
	3.2 Bonds
	3.3 Illicit cost-recovery fees and collaterals.

Indirect recruitment fees and related costs, and so-called ‘optional’ services

The ILO definition stipulates that fees or related costs should not be collected directly or indirectly. “Indirectly” in this context covers preventing employers or labour providers from recouping fees or related costs through salary deductions throughout the employment/placement period. It also covers preventing labour providers from:

- charging workers for purportedly optional services which are in fact integral to the recruitment process;
- making provision of recruitment services conditional on the worker using other services (such as a service to set up a bank account) or hiring or purchasing goods provided by the labour provider or any person connected to them.

Where workers have agreed to and signed for goods or services, provided at any stage in the recruitment process by the direct employer, labour user, labour provider, recruitment intermediaries or some other connected third party, businesses should be able to demonstrate:

- Such services are truly optional and are not integral to the recruitment process (i.e. a worker can still get the job without purchasing the item/service or is permitted to obtain/purchase from an alternative provider), nor are they indirect recruitment fees or costs;
- That applicants accepting such services do so without coercion or being misled and are not favoured over those that choose not to;
- Adequate time is allowed so the full implications of the service being offered can be understood before the worker makes the decision to proceed;
- All documents (including contracts) outlining any services or goods are complete, clear and straightforward, not misleading in any way and in a language that each worker understands.
- Extra precautions are taken to explain the contract to illiterate workers and to ensure its implications are clearly understood, with jobseekers being able to demonstrate a clear understanding of such arrangements.



Table 2: Costs incurred during the recruitment and employment period that can reasonably be charged to or met by the worker

The ILO definition defines the conditions under which costs can be considered related to recruitment (i.e. when initiated by an employer, labour recruiter or an agent acting on behalf of those parties; required to secure access to employment or placement; or imposed during the recruitment process) and should therefore not be paid by the worker.

Other initiatives have made an effort to identify costs that may be reasonably charged to the worker, if noted in their contract, a receipt or record of payment is provided, they reflect fair market value¹⁶ and conform to local legal requirements. They must be without mark-up and should be clearly specified, itemised and properly explained to workers at a stage where the individual can make a free choice as to whether to progress with the recruitment process or not. Businesses may choose to pay these fees.

4. Job qualifications	4.1 Costs to meet minimum qualifications to enter the job market such as any degrees or certifications. These are likely to be more relevant to skilled and semi-skilled roles.
5. Transportation and document costs where the worker initiates the application	5.1 Where a worker initiates the application, presenting themselves to the company at the place of employment, they will have paid or will pay some of the fees associated with documentation and transit, such as visas and transportation and should not expect to be reimbursed as the conditions in 2 do not apply in this instance. See ‘Appendix 2 – Where, when and how should transportation and document costs be covered?’ for further information on issues including avoiding unintended consequences of creating hidden channels for transportation of workers.
6. Documentation replacement when employee is at fault	6.1 Passport, visa and residency replacement costs due to loss where the employee is at fault. Where documentation is stolen, good practice would be for employers to cover these replacement costs.
7. Accommodation and meals during employment	7.1 Costs for labour provider- or employer/labour user-provided accommodation and meals only if they are truly optional, charged at fair market value comply with national legislation and meet health and safety standards.
8. Transport to and from the workplace	8.1 Costs for transport to and from the workplace including for a transport service (e.g. shuttle service) provided by the employer/labour user or labour provider only if it is truly optional, charged at fair market value, complies with national legislation and meet health & safety standards.
9. Early leave: return transportation and associated costs	9.1 If the worker has not provided their full notice period, the business may choose to not cover the costs of return transportation, lodging and subsistence to the worker's home in origin country provided this is legal, there is an express clause in the worker's contract, it has been clearly explained to the worker, and the worker is not having to leave without full notice period due to abuse, threat to safety or serious injury or ill health. Any benefits or entitlements due to the worker on termination of employment should always be provided.

16. Fair market value refers to the price a willing buyer would pay a willing seller in a transaction on the open market (OECD glossary).



PRACTICAL STEPS TO ELIMINATE WORKER-PAID RECRUITMENT FEES AND RELATED COSTS

Chapter 5

Since 2011, the UN Guiding Principles on Business and Human Rights (UNGPs)¹⁷ have been accepted as the authoritative global framework for addressing human rights risks and violations within businesses and supply chains across the world.

The UN Guiding Principles are founded on three pillars:

- **Protect:** States have a duty to protect, promote and support human rights
- **Respect:** Companies have a responsibility to respect human rights and “do no harm”
- **Remedy:** Both must ensure victims of business-related abuses have access to effective remedy.

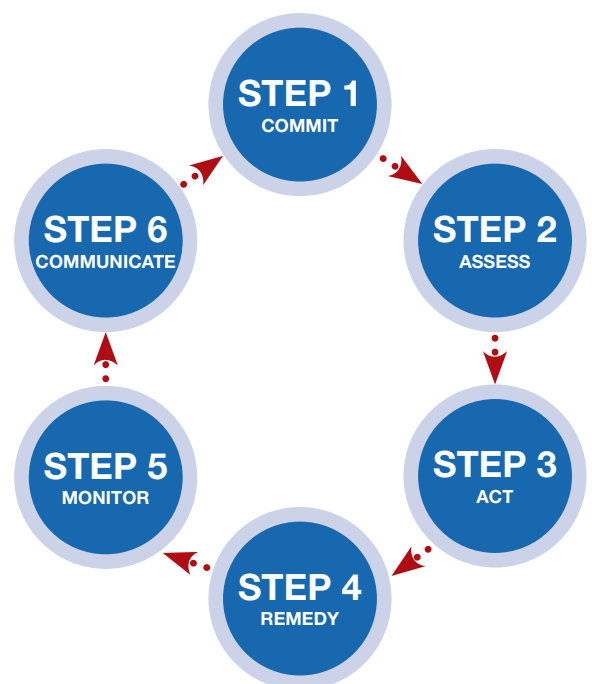
This section focuses on how a UNGP framework can be used to implement the Employer Pays Principle and eliminate the charging of recruitment fees and related costs to workers in your business and supply chains. Businesses are encouraged to consider how this approach sits alongside addressing their broader human rights impacts.¹⁸ The framework in this toolkit is aligned with IHRB in its ‘Six Steps to Responsible Recruitment’.¹⁹ The frameworks promote a circular approach whereby learning from implementing the framework feeds back into policy development, risk assessment and so on.

How it works

Each of the six steps is presented with a **checklist of key actions** for brands/retailers (BR), labour users (LU), direct employers (EM) and labour providers (LP) (see Chapter 1 for definitions). Where brands/retailers are also responsible for recruiting migrant workers into their own operations (for example where they operate their own manufacturing or warehousing), they should also refer to the steps associated with labour users and/or direct employers.

It is acknowledged that businesses of all sizes and levels will be using this toolkit. Each business will be at a different stage in terms of its business systems. It is recommended that brands/retailers, labour users, employers and labour providers work together to ensure effective implementation of the steps.

More detailed guidance regarding the development of management systems can be accessed at ResponsibleRecruitmentToolkit.org.



17. http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

18. For guidance on managing the breadth of human rights risks in your business and supply chain, visit www.stronger2gether.org to download the Tackling Modern Slavery in Global Supply Chains Toolkit.

19. https://www.ihrb.org/uploads/member-uploads/Six_Steps_to_Responsible_Recruitment_-_Leadership_Group_for_Responsible_Recruitment.pdf

STEP 1 COMMIT

COMMIT to the Employer Pays Principle

The first step of implementing a UNGP approach is for your business to commit to eliminating the charging of fees to workers in your business and supply chains.

Commit to the Employer Pays Principle		BR	LU	LP	EM	Tick if done
1.1	Agree business case					
1.1.1	Undertake initial research, with involvement of experts, peers and civil society to get a broad understanding of the costs of transitioning to an Employer Pays model.	■	■	■	■	
1.1.2	Develop a clear business case for adopting an Employer Pays model in your operations and supply chain (see Chapter 6).	■	■	■	■	
1.1.3	Secure buy-in and assign responsibility to a Board level or equivalent director, and key managers for committing to, developing and implementing the Employer Pays Principle.	■	■	■	■	
1.2	Develop a policy					
1.2.1	Develop an Employer Pays Principle and Repayment of Recruitment Fees policy. <i>See Appendices 4-6 - Template Policies for Brands/Retailers, Employers and Labour Providers.</i>	■	■	■	■	
1.3	Update other relevant policies, legal agreements and procedural documents					
1.3.1	Review and update existing policies and procedural documents ²⁰ related to company values, HR and supplier management to ensure that they are consistent with and do not conflict with your Employer Pays policy.	■	■	■	■	

²⁰ Policies and procedures that may need updating include:

- Company: Company charter, vision, values and principles, Ethical Trading Policy;
- Procurement: Ethical Procurement Policy, Tender documents, Supplier and Service Provider contracts/service level agreements;
- HR/Training: Staff Handbooks, Induction and training programmes;
- Recruitment: Fair Hiring/Ethical Recruitment/Responsible Use of Labour Providers policy, Labour provider contract and service level agreements, Labour provider social compliance audit;
- Technical/Ethical: Supplier ethical/social compliance audit frameworks; contracts and service level agreements with audit bodies;
- Worker voice and access to remedy arrangements.

Commit to the Employer Pays Principle		BR	LU	LP	EM	Tick if done
1.3.2	Introduce/update contracts, service level agreements, tender documents and guidance documents for business partners with clear requirements and sanctions in case of violation of the Employer Pays policy by the business partner or its subcontractors/sub-agents, including the reimbursement of any fees found to have been paid by workers and placing the burden on the business partner to demonstrate that recruitment fees and costs have been covered by the parties in the supply chain, and not by the worker.	■	■	■	■	
1.4	Communicate your commitment to jobseekers, workers, internal staff and externally					
1.4.1	<p>Communicate the Employer Pays policy and any updated policies internally to all employees (management, workers, business units, subsidiaries), including in communications to new workers i.e. in all job advertisements, on websites and job boards, in job information, interviews, offer letters and worker contracts. In addition to the usual terms and conditions, worker contracts should:</p> <ul style="list-style-type: none"> ■ clearly stipulate that the employer bears all recruitment fees and related costs, ■ itemise the fees that the employer has covered including transport between home and place of work and arrangements for the return journey, ■ direct workers to where they can report any issues relating to recruitment fees (see 3.5 Grievance Mechanisms) <p>All communications with workers should be in a language the worker understands, reviewed and signed by the worker.</p>	■	■	■	■	
1.4.2	Communicate the updated policies, legal agreements and procedural documents externally to all business partners in the supply chain, in all necessary languages, obtaining written confirmation that they have read your policies and are conforming to policy requirements or are actively working towards conforming within a set timeline.	■	■	■	■	
1.4.3	Communicate the Employer Pays Principle commitment publicly e.g. on company websites and in public-facing reports and materials.	■	■	■	■	

STEP 2 ASSESS

ASSESS the risk of workers paying recruitment fees and related costs in your supply chains

The second step towards eliminating worker-paid recruitment fees and related costs is to identify where the greatest risks of fee-charging to workers occur in your supply chain. Once you have identified where greatest risks occur (see table below), you can then identify low, medium and high-risk suppliers, undertake additional assessments of your high and medium risk suppliers, and begin strengthening your due diligence processes against identified risks.

Assess the risks of workers being charged recruitment fees		BR	LU	LP	EM	Tick if done
2.1	Map the labour supply chain					
2.1.1	Into your own operations: Labour users and labour providers should work together to map the labour supply chain from migrant worker communities into your business operations, providing written details of the use of any recruitment intermediaries, including on their legitimacy (e.g. appropriate licences to trade and operate), and the terms of engagement in place. Where there is any use of informal recruitment intermediaries, determine if these businesses provide distinct value to the recruitment process, and if so, work together to formalise the relationships (for example by putting in place service agreements/contracts – see 1.3.2). Or, where it is not a legitimate business, or provides no valuable service, remove the intermediary from the labour supply chain.		■	■		
2.1.2	Into your suppliers' operations: Engage your suppliers and subcontractors to map the labour supply chain into their business operations and provide written details as above.	■	■		■	

Assess the risks of workers being charged recruitment fees		BR	LU	LP	EM	Tick if done
2.2	Identify high, medium and low risk business partners					
2.2.1	Integrate risk factors associated with charging recruitment fees to workers into your existing risk assessment of business partners (labour providers and service providers into your business operations, and suppliers and subcontractors in your supply chain) and identify high, medium and low risk business partners ²¹ .	■	■	■	■	



21. Risk factors may include:

- Sectors involving a high number of low-skilled, migrant, agency or casual workers and seasonal work
- Migrant workers' visas and work permits tied to a single employer
- Labour supply chains characterised by a number of links involved in the recruitment process including local, informal brokers, sourcing agents and travel agents
- Countries with limited or weak laws and regulations around charging of recruitment fees to workers, or limited or weak enforcement of any laws and regulation.

If you haven't yet commenced an overall human rights risk assessment of your business operations and supply chain, you can consult the Stronger Together Global Supply Chains Toolkit – www.stronger2gether.org.

Assess the risks of workers being charged recruitment fees		BR	LU	LP	EM	Tick if done
2.3	Undertake additional assessments in your own operations and supply chain by integrating a review of recruitment processes into internal audits and external assessments					
2.3.1	Operations <p>a) Internal audits of your own management systems (Labour Providers)/recruitment practices at your sites (Labour Users/Employers) for the sourcing and supply of workers to verify that:</p> <ul style="list-style-type: none"> ■ All necessary communication of the Employer Pays policy (see Step 1) has taken place; ■ Any labour providers and sourcing agents used have the required licences to operate and have signed contractual agreements which stipulate a commitment to the Employer Pays Principle; ■ All job advertisements, contracts, offer letters or any other type of communication between your business and workers clearly state that recruitment fees and related costs will not be charged to them. ■ There are credible, safe, transparent mechanisms in place for workers to raise grievances confidentially (see Step 3.5). <p>b) Interviews with workers to go through the recruitment journey with them to establish if any fees have been paid. Repeat the interviews after 1 month, 3-6 months and 12 months when workers feel more secure in their employment. Whenever possible interviews should be conducted with the support of an independent party trusted by workers in order to ensure reliable information. See Appendix 9 – Sample worker interview questions on recruitment fees.</p>		■	■	■	
2.3.2	Supply chain <p>a) Questionnaires/site visits/third-party audits of any labour providers or sourcing agents in your supply chain to ensure they meet the requirements in 2.3.1.</p> <p>b) Where your due diligence has identified a high risk of fee-charging, consider implementing direct oversight of recruitment processes e.g. overseeing recruitment campaigns in countries of origin.</p>	■	■	■	■	



ACT to eliminate fee-charging and tackle debt bondage

The third step towards eliminating worker-paid recruitment fees and related costs is to develop an action plan to address any risks and issues identified in Step 2. Your action plan should incorporate training and capacity building, introducing systems to calculate the costs of recruitment fees and evidence that they have been paid by the employer, reviewing the impacts of your own purchasing practices and implementing effective grievance mechanisms²² to enable workers to report where they have paid recruitment fees and seek effective remedy.

Act to eliminate fee-charging and tackle debt bondage		BR	LU	LP	EM	Tick if done
3.1	Training					
3.1.1	<p>Develop and deliver training on the Employer Pays Principle, due diligence processes and remedy for:</p> <ul style="list-style-type: none"> ■ Relevant internal managers and supervisors (including HR, Operations, Technical and Procurement) ■ Business partners (suppliers, sub-contractors, labour providers, sourcing and sub-agents, service providers) ■ Third-party audit bodies (including management systems to review as part of audits). 	■	■	■	■	
3.2	Purchasing practices					
3.2.1	<p>Review internal purchasing practices, and work with business partners, to ensure there is no unintended impact on charging of recruitment fees such as short lead times, short-term contracts, sudden changes in workload, poor labour planning and unsustainable purchase prices (see 3.2.2), which could mean labour providers into your own operations or suppliers' operations, or any recruitment intermediaries, have less time to implement necessary due diligence on the recruitment process.</p>	■	■	■	■	

22. Such mechanisms should be: legitimate; accessible; predictable; equitable; transparent and sources of continuous learning for the business and its supply chain (UN Guiding Principles on Business and Human Rights).

Act to eliminate fee-charging and tackle debt bondage		BR	LU	LP	EM	Tick if done
3.2.2	Work with business partners to agree a sustainable price which supports each party at every stage of the recruitment process to cover the costs of recruitment so these are not passed on to workers. Business partners will need to specify the cost components throughout the recruitment process, calculate the true cost of recruitment and agree an appropriate mark-up for management and processing costs. These costs should be separated from other costs in quotations and contracts to ensure transparency on costing and fairness throughout the tendering and contract negotiation process, with an agreement that can be audited and enforced contractually. See Appendix 8 - Template document to calculate recruitment fees for the supply of migrant workers.	■	■	■	■	
3.3 Burden of proof						
3.3.1	Introduce effective systems to maintain records demonstrating that all recruitment fees and related costs have been paid by the businesses involved at every stage in the recruitment process, and not by the worker.		■	■	■	
3.3.2	Commercially incentivise labour providers that implement the Employer Pays Principle and demonstrate continuous improvement towards the development of robust management systems and due diligence to manage risks. Incentives could include a fee premium or volume increase based on quantitative performance achievements such as: <ul style="list-style-type: none"> ■ Retention of migrant workers on their sites ■ Results of post-arrival worker interviews ■ Consistent compliance with the Employer Pays policy (and broader human rights policies). 		■			
3.4 Collaborative working and advocacy						
3.4.1	Identify opportunities for collaboration to tackle more systemic issues associated with fee charging and debt bondage with peers, business partners, industry groups, civil society, public bodies and unions; advocate for improvements in legislation, regulation and enforcement relating to fee-charging to workers with relevant governments.	■	■	■	■	

Act to eliminate fee-charging and tackle debt bondage		BR	LU	LP	EM	Tick if done
3.5 Grievance mechanisms: design and implement clear and transparent grievance mechanisms to ensure workers in your operations and supply chains are able to report the charging of recruitment fees at any stage of the recruitment process and are able to seek appropriate assistance²³. These should include:						
3.5.1	A credible and effective internal complaints/grievance mechanism	■	■	■	■	
3.5.2	A nominated independent external body through which workers are able to report or discuss concerns relating to recruitment fees confidentially	■	■	■	■	
3.5.3	A confidential, anonymous, independently operated multi-language whistleblowing helpline	■	■	■	■	
3.5.4	An established mechanism for reporting and responding to cases of forced labour/modern slavery by which workers are guided to report issues to state enforcement authorities or where these do not exist through a whistleblowing system.	■	■	■	■	
3.5 Continuous improvement						
3.5.1	Add a review of progress on implementing the Employer Pays Principle into regular meetings with business partners.	■	■	■	■	
3.5.2	Communicate clear expectations to business partners on continuous improvement including a process for severing relationships where there is no commitment to improve.	■	■	■	■	
3.5.3	Where issues are identified, companies should work with business partners to implement corrective actions within a set timeframe to improve practices e.g. requiring suppliers to implement additional interviews of workers later into their employment if it is discovered that they are only interviewing workers on arrival.	■	■	■	■	

23. Visit ResponsibleRecruitmentToolkit.org for guidance on implementing effective grievance mechanisms.



STEP 4 REMEDY

Provide **REMEDY** where workers are found to have paid recruitment fees

The fourth step is to provide effective remedy to workers that are found to have paid recruitment fees. In line with the UNGP Protect, Respect, Remedy framework both States and businesses have a responsibility to provide remedy for business-related abuses. Businesses should have a range of grievance mechanisms (see step 3.5) for receiving complaints raised by or on behalf of workers at all stages of the recruitment journey, with transparent procedures to ensure effective remedy for victims. Where evidence of fees being charged to workers is revealed, businesses should immediately investigate to determine responsibility and seek to reimburse workers as soon as possible.



Provide remedy where workers are found to have paid recruitment fees		BR	LU	LP	EM	Tick if done
4.1 Remediation						
4.1.1	<p>Provide effective remedy where evidence of fees charged to workers is revealed, in line with your written policy on repayment of recruitment fees (see step 1.2) and procedural documents outlining responsibilities agreed with clients and business partners including contracts and service level agreements (see step 1.3.2). Steps should include:</p> <ul style="list-style-type: none"> ■ An investigation to determine who is responsible for the violation, and whether this was within the reasonable due diligence control of the business. ■ Gathering all available evidence relating to the charging of recruitment fees. ■ Seeking support and guidance from local civil society or worker representative actors and/or government officials. ■ Securing an agreement between parties (Brands & Retailers, Labour User, Labour Provider, worker representatives, affected worker(s)) on the level of fees to be reimbursed and responsibility for reimbursing. ■ Reimbursing the agreed fees as soon as possible and within a timeframe agreed with relevant parties, including workers and their representatives. ■ Terminating contracts with any business where there has been a gross violation of terms. ■ Providing other appropriate remedy²⁴ to the workers impacted including seeking judicial restitution for any crimes, seeking support for the rehabilitation of victims harmed, and guarantee of non-repetition. <p>See appendices 5 to 7 - Template Employer Pays Principle and Repayment of Recruitment Fees Policies for Brands, Labour Users and Labour Providers for further details.</p>		■	■	■	
4.1.2	Use commercial leverage to ensure effective remedy for workers that are found to have paid recruitment fees in your supply chain.	■			■	
4.1.3	Develop a contingency fund for remediation which can be drawn on when other routes to repay workers (e.g. commercial terms, leverage or judicial mechanisms) have been exhausted.	■	■	■	■	

Appendix 3 sets out four potential scenarios of recruitment fee-charging to workers along with the potential remedial actions that businesses could take to help illustrate in practice the steps in this section. **Appendix 4** sets out real-life case studies of repayment of recruitment fees in the food (UK), ICT (Japan) and construction (Qatar) sectors.

24. The UN Guiding Principles on Business and Human Rights notes that there are four main types of remedy: Restitution, Compensation, Rehabilitation and Satisfaction and guarantee of non-repetition.

STEP 5 MONITOR

MONITOR effectiveness of policies, actions and remedy

The fifth step is to track and monitor the impact of your Employer Pays actions to ensure that the desired outcomes are being achieved and risks of worker exploitation are being reduced.

Monitor – track and record your progress on eliminating worker-paid recruitment fees and related costs		BR	LU	LP	EM	Tick if done
5.1 Internal monitoring						
5.1.1	<p>Establish a set of quantitative and qualitative indicators which you will use to measure your progress on eliminating recruitment fees. These may include:</p> <p>Quantitative:</p> <ul style="list-style-type: none"> ■ Changes in business partner risk ratings as a result of incorporating recruitment risks and indicators ■ Number or proportion of business partners (suppliers, subcontractors, service providers, labour providers, sourcing and sub-agents) that have provided written acknowledgement committing to: <ol style="list-style-type: none"> 1) eliminate recruitment fees charged to workers in their operations and supply chains 2) submit to company monitoring 3) collaborate in remediation of fees charged to workers ■ Number of internal/third-party audits which include a review of recruitment processes ■ Audit outcomes and closure of corrective actions ■ Proactive projects and collaborations to prevent and address recruitment fees ■ Compensation to workers that have paid recruitment fees in its operations/supply chain and who paid ■ Employees/suppliers/labour providers trained ■ Business partners that have grievance mechanisms in place ■ Number of workers interviewed regarding recruitment fees ■ Number of grievances regarding recruitment fees which are effectively resolved ■ Number of workers provided with written information regarding access to grievance mechanisms in their own language 	■	■	■	■	

Monitor – track and record your progress on eliminating worker-paid recruitment fees and related costs		BR	LU	LP	EM	Tick if done
5.1.1	Qualitative indicators <ul style="list-style-type: none"> Results of labour user interviews with migrant workers upon arrival at the place of work, 1 month later, 3-6 months later and 12 months later Results of worker surveys relating to recruitment fees Victims feedback on outcomes and efficacy of grievance procedures Stakeholder feedback on Employer Pays policies and implementation 					
5.1.2	Set up a system for collecting the information you require at least annually and tracking progress against your selected indicators. This system could be standalone or could be integrated into other ethical/trade/human rights tracking processes or systems which your business may already have in place.	■	■	■	■	
5.2 External monitoring and data analysis						
5.2.1	Communicate data collection requirements to business partners and support them with the implementation of their own systems for data collection if necessary	■	■	■	■	
5.2.2	Invite independent, third-party monitoring of your systems to eliminate recruitment fees, to calculate the true cost of recruitment and any reimbursement of recruitment fees to workers.	■	■	■	■	
5.2.3	Review opportunities for stakeholder certification e.g. a requirement that only Clearview-certified labour providers are used in the labour supply chain.	■	■	■	■	
5.2.4	Analyse internal data and results of external monitoring to understand trends and root causes and use this information to adjust processes such as: <ul style="list-style-type: none"> Commit – Incorporate tracking data into training and communications on your Employer Pays policy Assess – Undertaking more in-depth risk assessments in countries or operational areas where tracking has identified high-levels of issues Act – Identify where the most severe impacts to workers are occurring to target training and collaborative activities Remedy – Gather stakeholder feedback on the grievances that have been raised and how your business has sought to remedy the impacts. 	■	■	■	■	

STEP 6 COMMUNICATE

COMMUNICATE on effectiveness and share lessons learned and best practice

The final step is to communicate openly to stakeholders about progress made and the challenges faced. Communications about your Employer Pays actions should focus on the effectiveness of the policy and your due diligence processes. You will need to identify what information to share, and how to share it, with internal and external stakeholders.

Communicate the effectiveness of your efforts to eliminate worker-paid recruitment fees and related costs		BR	LU	LP	EM	Tick if done
6.1	<p>Map the stakeholders that may be interested in understanding the effectiveness of your company's commitment to the Employer Pays Principle (business partners, migrant workers, worker representatives, employees, governments, civil society organisations) and, in collaboration with these stakeholders, devise a communications plan including:</p> <ul style="list-style-type: none"> ■ Staff communications (intranet, staff newsletters, e-mail circulation lists, noticeboards, worker forums) ■ Internal meetings (Board meetings, internal policy forums, meetings with relevant colleagues e.g. Procurement, HR) ■ Business partner progress review meetings ■ External reports (annual reports, sustainability reports, human rights/modern slavery statements) ■ Website, traditional and social media 	■	■	■	■	
6.2	<p>Communicate regularly, openly and honestly about the risks and challenges you have identified. General principles to apply should include:</p> <ul style="list-style-type: none"> ■ Be transparent and accountable about the effectiveness of the Employer Pays policy and due diligence processes. ■ Be sensitive to how stakeholders, particularly migrant workers, may access and use the information, for example, providing content in a variety of languages. ■ Share lessons learned and pool information with other companies and stakeholders to contribute to raising standards in migrant worker recruitment within and across industries and countries. 	■	■	■	■	



THE BUSINESS CASE FOR ELIMINATING WORKER-PAID RECRUITMENT FEES AND RELATED COSTS

Chapter 6

The moral case for eliminating recruitment fees charged to workers is clear but there is also a strong business case for implementing the Employer Pays Principle.

Aligning to international labour standards and business best practice

The International Labour Organisation (ILO) Convention 181 states that *“private employment agencies, shall not charge directly or indirectly, in whole or in part, any fees or costs to workers”*. The ILO Protocol to Forced Labour Convention 29 stipulates that measures to prevent forced labour must include protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process. The ILO General Principles and Operational Guidelines for fair recruitment and Definition of Recruitment Fees and Related Costs include the principle that “no recruitment fees or related costs should be charged to, or otherwise borne by, workers or jobseekers”.

In line with the ILO, a number of companies (and in some cases entire sectors) are beginning to commit to eliminating recruitment fees and related costs charged to workers. This includes:

- **The Leadership Group for Responsible Recruitment**, a collaboration between leading companies and expert organisations to drive positive change in the way that migrant workers are recruited, which have committed to the Employer Pays Principle;²⁵
- **The World Employment Confederation**, representing the employment industry at a global level. Principle 3 of its Code of Conduct is *“respect for free-of-charge provision of services of jobseekers”*;²⁶
- **The Consumer Goods Forum (CGF)**, representing major global brands has produced a set of Forced Labour Priority Industry Principles which state that: *“every worker should have freedom of movement; no worker should pay for a job; and no worker should be indebted or coerced to work”*;²⁷
- **The British Retail Consortium (BRC)**, a trade association for UK retailers, BRC’s Better Retail, Better World initiative includes the commitment that *“no worker should pay for a job”*;²⁸
- **The Global Social Compliance Programme (GSCP)** is a business-driven programme open to buying companies (brands and retailers) across all sectors and geographies. The GSCP code of conduct includes the provision that *“suppliers shall not use any form of bonded labour nor permit or encourage workers to incur debt through recruitment fees, fines, or other means”*;²⁹
- **The Responsible Business Alliance**, representing major electronics retail, auto and toy companies whose members have agreed the principle that *“workers shall not be required to pay fees for their employment”*;³⁰
- **The International Tourism partnership**, representing the world’s leading hotel groups, has produced a set of Principles on Forced Labour, including that *“no worker should pay for a job”*;³¹

25 <https://www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment>

26 https://www.wecglobal.org/uploads/2019/07/2017_WEC_Code-Conduct.pdf

27 <http://www.theconsumergoodsforum.com/strategic-focus/social-sustainability/forced-labour-priority-industry-principles>

28 <https://brc.org.uk/making-a-difference/priorities/better-retail-better-world/decent-work-economic-growth>

29 <http://www.theconsumergoodsforum.com/gscp-our-work/reference-tools>

30 http://www.eiccoalition.org/media/docs/EICCCodeofConduct5_1_English.pdf

31 http://www.eiccoalition.org/media/docs/EICCCodeofConduct5_1_English.pdf

- **International Recruitment Integrity System** is a social compliance scheme that is designed to promote ethical international recruitment. It works by defining and setting a benchmark for ethical recruitment – the IRIS Standard – and by establishing a voluntary certification scheme for ethical labour recruiters. Principle 1 of the IRIS Standard prohibits the charging of recruitment fees and related costs to jobseekers;³²
- **Clearview**, the global labour provider certification scheme which is aligned to international standards including the IRIS standard and Global Social Compliance Programme;³³
- **Ethical Charter on Responsible Labor Practices**, adopted by the Produce Marketing Association and United Fresh Produce Association in the US, the Ethical Charter includes commitments on “ethical recruitment”;³⁴
- **American Apparel and Footwear Association (AAFA)**, developed in conjunction with the Fair Labor Association (FLA), over a hundred companies have signed the AAFA/FLA Apparel & Footwear Industry Commitment to Responsible Recruitment.³⁵
- The **ILO Global Business Network on Forced Labour**, which in 2019 produced a repository of industry definitions of recruitment fees and costs.³⁶

Legal compliance and government action

As already outlined, recruitment fees are linked to debt bondage, forced labour and trafficking. These are crimes in most countries and businesses found to be involved or complicit could face criminal or civil sanctions including payment of fines, compensation to victims and/or imprisonment. In addition, countries are now beginning to introduce trade regulations that prohibit the import of goods produced by trafficked or forced labour with requirements on companies to demonstrate that their goods are ‘slavery-free’³⁷ or place a requirement on businesses to publicly report the steps they are taking to address modern slavery.³⁸

The Global Compact for Safe, Orderly and Regular Migration is the first inter-governmentally negotiated agreement, prepared under the auspices of the United Nations, covering all dimensions of international migration in a holistic and comprehensive manner. The Global Compact includes a commitment to improve regulations on public and private recruitment agencies, in order to align them with international guidelines and best practices, prohibit recruiters and employers from charging or shifting recruitment fees or related costs to migrant workers in order to prevent debt bondage, exploitation and forced labour, including by establishing mandatory, enforceable mechanisms for effective regulation and monitoring of the recruitment industry.

In October 2018, the UK, US, Canadian, Australian and New Zealand Governments announced Common Principles for Tackling Modern Slavery in Supply Chains. Principle 3 states:

“Governments should advance responsible recruitment policies and practices including by implementing policies that incentivize and support responsible practices, and by supporting initiatives such as the ‘Employer Pays Principle’. Governments can also contribute to the growing knowledge base of promising practices for protecting workers from fraud and exploitation in the recruitment process.”

It is also an emerging requirement within some public procurement contracts, so companies supplying goods or services into Governments are increasingly required to demonstrate how they ensure workers are not charged recruitment fees in their operations and supply chains.

32. <https://iris.iom.int/iris-standard>

33. www.clearviewassurance.com

34. <https://www.ethicalcharter.com>

35. https://www.aafaglobal.org/AAFA/Solutions_Pages/Commitment_to_Responsible_Recruitment

36. https://fbusiness.network/wp-content/uploads/GBNFL_Comparison-RC_RF_FINAL-1-1.xlsx

37. For example, section 307 of the US Tariff Act of 1930 for example states that “all goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry.” As well as legislating on direct business practices, the US government recently introduced legislation to make companies responsible for the activities of their business partners through US Executive Order 13627 Strengthening Prevention of Human Trafficking. This Order prohibits federal contractors, sub-contractors and their employees – among them major companies – from engaging in trafficking-related activities. Charging employees recruitment fees is included in the definition of these activities.

38. For example, the UK Modern Slavery Act, the California Transparency in Supply Chains law and the French Corporate Duty of Vigilance law.

Commercial imperative, managing risks and business benefits

Businesses may be concerned that taking on responsibility for recruitment fees will be a financial burden. However, the true cost of recruitment is often lower than expected and certainly lower than the large fees that are being charged to workers. In addition:

- There is a **significant risk and potential commercial impact to brand value and reputation** if a business is linked to issues of fee-charging and debt bondage, particularly for businesses in consumer-facing markets and/or with investors (who tend to be risk averse).
- There **could be long-lasting consequences for businesses** associated with these violations of human rights law.
- Where serious issues are uncovered, production or distribution could be placed on hold while the issue is investigated, meaning a direct **loss of revenue**.
- Businesses complicit in the exploitation of workers and linked to bribery and corruption (e.g. of government employees or officials), risk **extensive fines, criminal and/or civil prosecution and even imprisonment** if they are found guilty.

Conversely, there are a range of benefits to businesses adopting the Employer Pays Principle:

- Workers who do not pay fees, are likely to be better matched or qualified to the jobs on offer, compared to workers willing or coerced to pay the highest fee. In markets characterised by labour shortages, the removal of recruitment fees may help attract workers to the jobs on offer.
- According to the World Employment Confederation³⁹, companies that treat workers fairly benefit from higher levels of workplace morale, lower staff turnover, reduced costs for training and on-boarding, improvements in quality, efficiency and productivity as well as fewer workplace grievances that can lead to absenteeism, work “slowdowns” or even industrial action.
- Introducing professional and ethical recruitment practices also supports the smooth running of business operations, helping to build stronger business partnerships up and down the supply chain.
- Increasingly, brands and retailers have corporate social responsibility policies that address labour and human rights risks in their operations and supply chains. Brands and retailers are seeking to minimise these risks by working with likeminded supply chain partners. Thus, implementing ethical recruitment practices can offer labour users and labour providers a competitive advantage opening up access to new business.
- Committing to policies on eliminating fees charged to workers also offers an engagement opportunity for business with their wider workforce who will see their employer taking proactive measures to drive out exploitation.
- Eliminating worker-paid recruitment fees and related costs is a fundamental action that companies working towards slavery-free supply chains must implement.

39. https://www.wecglobal.org/uploads/2019/07/WEC_Business-Case-Ethical-Recruitment.pdf

APPENDICES: TOOLS AND RESOURCES

GLOBAL CASE STUDIES OF RECRUITMENT FEES AND DEBT BONDAGE

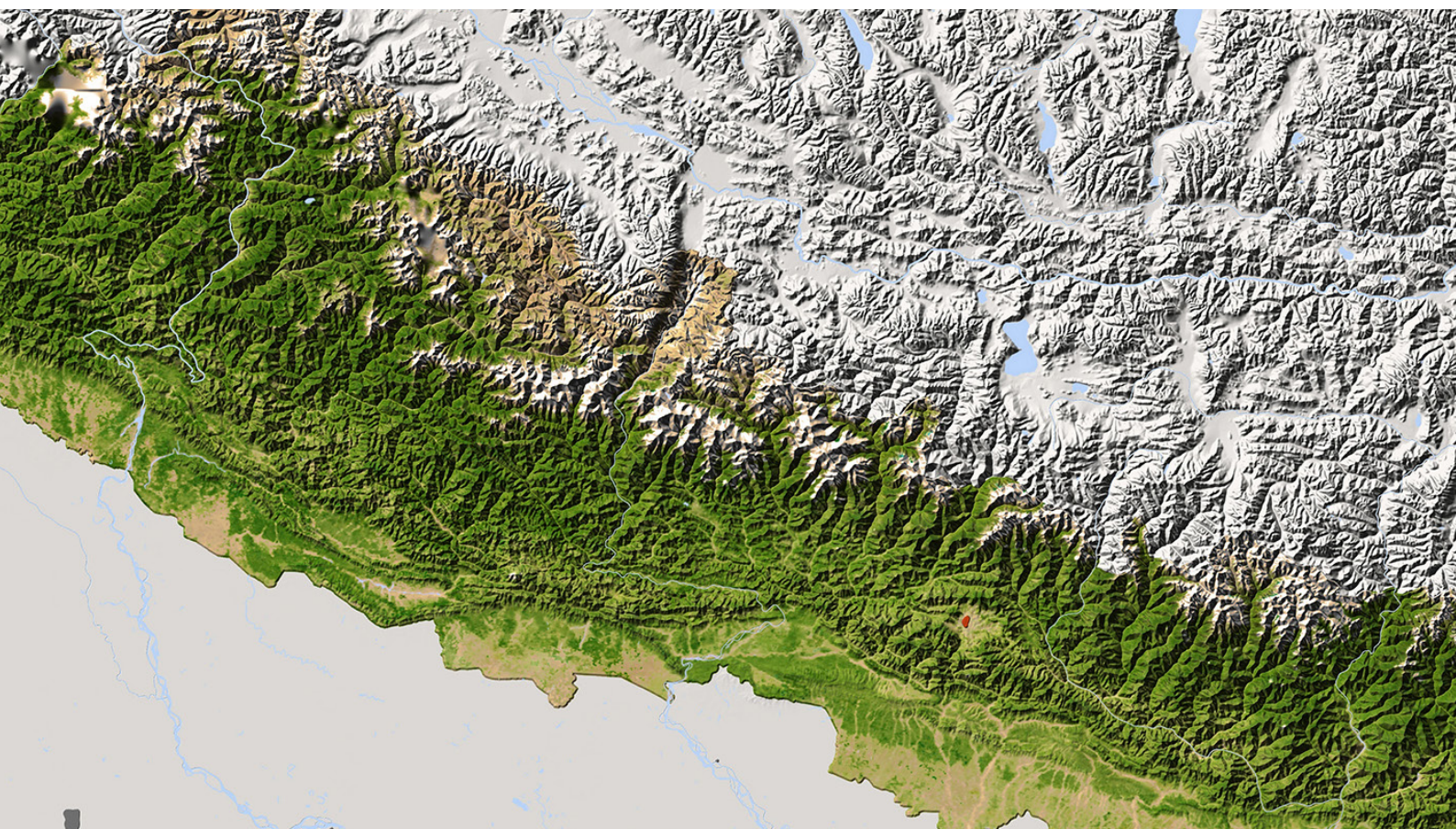
Nepal to Malaysia: Anjay's story

Source document: Amnesty International. Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers © Amnesty International 2017

Anjay, a 28-year old man from Kailali district, Nepal, took out a loan of NPR 235,000 (USD 2,277) to pay for a recruitment fee for a job in Malaysia that his agent demanded within 10 days of agreeing to the job placement. After paying this fee and taking out a loan at a 30% rate of interest to cover half of the fee, Anjay had to wait for more than a year for his visa and ticket from his recruitment agency, even though the agency had told him that his visa had arrived. The agent's behaviour violated the Nepal Foreign Employment Act.

But Anjay felt he could not challenge his delayed departure or seek the services of a different recruitment agency, because he had paid the recruitment fee in advance and accrued such a high recruitment debt that he had to migrate urgently in order to start paying. When Anjay's visa and ticket finally arrived and he was leaving the country, he found that his contract stated different terms and conditions of his work than originally promised, but was in no position to challenge this:

"I only received my work contract in the Kathmandu airport – one hour before my flight. When I noticed that the salary in the contract was 25% lower than the promised salary by my recruitment agency, I did not complain. At this point, I felt that I simply had to "make peace" with what had happened to me, and go abroad in order to pay off my loan."



Myanmar to Thailand

Source: <https://sg.news.yahoo.com/extortion-abuse-myanmar-workers-arrive-debt-laden-thailand-050712212--finance.html?guccounter=1>

In October 2018, AFP News reported that despite a 2017 law introduced in Thailand to fight worker exploitation, workers from Myanmar continue to arrive debt-laden. According to foreign workers and labour experts, a lack of enforcement means migrants often shell out hundreds of dollars in inflated fees to agents and end up in debt before they even secure a job.

In a Yangon teashop, Kyaw Naing, 24, said he had already handed over a thick wad of cash to an agent who had promised him work. “I had to borrow money from my family with interest but I will pay it back if my job is good,” he says, adding that the agent assured him Thailand’s new law means he will now be “more secure”.

40-year old Ma Oo, who had to pay \$400 for a job in an electronics factory near Bangkok said: “The agents took advantage of us.”



Asia to Australia

Source document: <https://www.fairwork.gov.au/ArticleDocuments/763/417-visa-inquiry-report.pdf.aspx>

In 2016, the Fair Work Ombudsman in Australia, undertook an inquiry into the wages and conditions of people working under the 417 Working Holiday Visa Program. The Inquiry’s survey found that 14% of visa holder respondents reported they had to pay to secure regional work, with 65% of those paying an agent, and 10% of respondents reported an agent or third party taking some of their of their pay. The survey findings identified there are especially vulnerable nationalities within the visa cohort who are being targeted to undertake work in contravention of their workplace rights, in particular those visa holders from Asian countries. While the survey did not identify this occurrence for the majority of respondents, the inquiry believed that where it is occurring it is organised and demonstrative of a structured business model used by an unscrupulous agent or employer seeking to exploit and make money from visa holders.



UK

Innovations in the business model of modern slavery:

Source: Andrew Crane, Genevieve LeBaron, Kam Phung, Laya Behbahani and Jean Allain

https://www.researchgate.net/publication/326284896_Innovations_in_the_Business_Models_of_Modern_Slavery_The_Dark_Side_of_Business_Model_Innovation

A 2018 University of Bath study of the food and construction sectors in the UK found that new business models of exploitation are emerging whereby people trapped in debt bondage are underworked by ruthless labour providers, to increase their debt burden and provide revenue from “ancillary services”, such as accommodation, food, transport and other goods provided by intermediaries. They are driven deeper into debt, securing funds from family members abroad, or instant loan services and become increasingly susceptible to continued exploitation. Thus, unlike labour providers that focus on minimising the unit cost of labour, these agencies will be less concerned with maximising the margin charged to clients, and focus on maximising the number of workers under their control and therefore the margin earned from services supplied to workers.

Work-finding fees and labour exploitation still prevalent:

Source: <http://www.gla.gov.uk/media/3537/external-nature-and-scale-of-labour-exploitation-report-final-version-may-2018.pdf>

The 2018 ‘Nature and Scale of Labour Exploitation’ report from the UK’s Gangmasters and Labour Abuse Authority highlights a number of sectors where intelligence suggests recruitment, work-finding and in-work fees are being charged to workers. The hotel, food processing, warehouse and distribution and car wash sectors are particularly highlighted with examples including fees for annual translation services, security deposits, PPE, and in the car wash sector, agencies charging hundreds of pounds to secure work in the sector.



Mexico to the US

Source document: <https://www.indystar.com/story/opinion/columnists/tim-swarens/2018/10/11/invisible-harvest-how-migrant-workers-who-harvest-indianas-crops-vulnerable-exploitation/934423002/>

In 2017, two Mexican migrant workers contacted the National Human Trafficking Hotline in the US to report possible wage fraud and labour trafficking violations. The brothers said they signed documents in Mexico that promised they would be paid \$18 an hour to work for a landscaping company in Indiana. Based on that agreement, the men each gave a recruiter 10,000 pesos (about \$528) to secure the jobs. They also paid about \$800 to travel from Mexico to Indiana. A loan they took out to pay those expenses cost them another 5,000 pesos (about \$264) in interest.

However, once in the United States, the men say they were paid \$12 an hour for landscaping work and were sent to work three days a week on a farm, where they were paid only \$8 an hour. The men quit and eventually returned to Mexico out of concern for their safety when a fellow worker was killed in an on-the-job accident.

The brothers had travelled to the US to help provide financial support for their parents and to pay for their sister to attend nursing school. They returned home after earning enough to cover only their travel expenses and say they are still paying off the loans they took out to migrate.



Appendix 2

WHY, WHEN AND HOW SHOULD TRANSPORTATION AND DOCUMENT COSTS BE COVERED?

Why

The ILO Definition of Recruitment Fees and Related Costs includes all transportation and documentation costs inherent to the recruitment process.

Transportation is often the largest cost borne by migrant workers and therefore presents a high area of risk of workers finding themselves in situations of debt bondage i.e. if they become indebted to informal moneylenders, travel agents, their labour provider or employer. Civil society organisations argue that, whilst important, the risk of debt bondage is not the only reason to include transportation and associated costs. They note that these costs are integral to the recruitment of workers and therefore represent costs that should be covered by the employer. Indeed, the ILO definition, covers all expenses incurred for transportation, lodging and subsistence **within or across national borders**.

When

The key tests for whether employers should pay transportation and associated documentation costs is if the costs are:

- Initiated by the employer, labour recruiter or an agent acting on behalf of those parties;
- Required to secure access to employment or placement;
- Imposed during the recruitment process.

This includes when:

- The worker applies for a job directly with a labour provider in the destination country (e.g. through their website in the destination country), and the job offer is made while the worker is still based in the origin country.
- The worker is a 'seasonal returner' – i.e. they return to work in a destination country on a periodic basis for the same job – if they have an employment offer for that job.

How

In some regions and sectors, covering migrant workers' transportation costs will represent a major shift in the recruitment business model, particularly in regions where there is free movement of labour. Where this is the case, labour providers, labour users and brands & retailers should discuss how these costs will be managed to ensure a sustainable business model whilst avoiding these costs being passed on to workers. Practical considerations may include:

- Offering workers a transport option organised by the labour user or labour provider to reduce costs, e.g. a coach to transport migrant workers from one country to another to avoid airfares. Where a suitable transport option is offered to workers (i.e. it meets health and safety standards), if workers freely choose to take an alternative option, this would be at their own cost.

- Where the labour user is concerned that by covering transit costs, they could provide workers with a ‘free’ journey whereby workers might never commence or quickly leave the employment they have been recruited for, they may consider ways to mitigate the risk, e.g:
 - Provisions in contracts between the labour user and labour provider on retention of workers e.g. a model where the labour provider covers transit costs and is reimbursed by the labour user over a period of time or, performance incentives in the labour provider’s contract to positively reward for retention of migrant workers
 - Ensuring that recruiters clearly describe (or demonstrate through videos, worker testimonies etc.) what the nature of the work will be
 - Implementing strategies to retain workers including ensuring workers feel welcomed on arrival, wages, working and living conditions once in employment are attractive, and workers are actively engaged and supported throughout the recruitment and employment process.

Unintended consequences

Some businesses have raised concerns that offering free transportation could create unintended consequences for example:

- **Abuse by organised crime/exploitative agencies:** Whereby free transport could act as a lure to organised crime, with criminal gangs using the free travel to bring down the cost of trafficking workers for exploitation.
- **Avoidance models:** Whereby loopholes could be created and exploited to avoid paying transport costs. For instance:
 - Not confirming a contractual offer until a worker has made their own way to the place of work.
 - Recruiting migrant workers locally, that have in effect been transported through hidden transportation networks.

In response, Civil Society Organisations have reiterated that labour supply chain due diligence and worker access to credible grievance mechanisms throughout the recruitment process will be critical to avoid the risk of any unintended human rights impacts. Furthermore, the ILO notes that any recruitment fees and related costs considered under their definition should not lead to direct or indirect discrimination between workers who have the right to freedom of movement for the purpose of employment, within the framework of regional economic integration areas.



Appendix 3

SCENARIOS FOR THE REPAYMENT AND REMEDIATION OF WORKER-PAID RECRUITMENT FEES

Scenario 1 – Labour provider directly responsible for fee-charging to workers



The labour user receives information through its confidential, whistleblowing helpline that its recruitment services labour provider has been charging workers inflated fees to attend pre-departure training sessions in the origin country, falsely telling workers that it is a condition of their employment with the labour user. Some workers who couldn't afford to pay up front have taken out loans with the recruitment agency and are struggling to keep up repayments. The labour user had undertaken open costing when appointing the labour provider to cover all recruitment fees and related costs, including for pre-departure training. An investigation determines that this is standard malpractice in the labour provider, rather than a local misunderstanding or the actions of a rogue employee.

Potential remedial steps

- Labour user uses terms of commercial contract with the labour provider to ensure an investigation is conducted and workers are reimbursed by the labour provider for the fees and any interest they have paid.
- Labour user terminates any ongoing recruitment services contract with the recruitment agency after ensuring this will not negatively impact workers and, if possible, pursues appropriate judicial restitution in the origin and destination country including the potential prosecution of the labour provider for fraudulent activity.
- If necessary, offer additional remedy to workers such as access to rehabilitation (e.g. workplace coaching).
- Labour user reviews its own due diligence processes to minimise risks of working with exploitative labour providers.

Scenario 2 – Labour provider potentially complicit in fee-charging



The labour user receives information through its internal grievance mechanism that its employment services labour provider has made it a condition of recruitment that workers must use a specified third-party international travel provider. The international travel company requires workers to use a specified loan provider to cover the costs of travel. Workers complain that the interest on the loans is high and they are struggling to repay the debts. The workers report that the loan provider has threatened that the labour provider will stop placing them in work if they don't repay.

Potential remedial steps

- An immediate investigation to determine where responsibility lies.
- Labour user uses terms of commercial contract with the labour provider to ensure workers are reimbursed for the fees and interest they have paid.
- Labour user may choose to terminate the contract with the labour provider if there is evidence that the labour provider was complicit in the exploitation.
- Labour user may directly employ the migrant workers or may tender for a new labour provider to employ the migrant workers. Workers and their representatives should be consulted.
- If necessary, offer additional remedy to workers such as access to rehabilitation (e.g. counselling, workplace coaching).

Scenario 3 – Informal broker not linked to labour supply chain, due diligence processes lacking



As part of a routine ethical assessment of a labour user's factory, workers are interviewed about their recruitment journey. Three migrant workers explain that they paid fees in their local community to a broker who promised them jobs with the sourcing agent in their countries. The fees amounted to about three months' salary. When they applied for the jobs, it was not explained to the workers that they should not pay any recruitment fees and the job advertisement did not state this. Their families took out loans with the broker to cover the costs and the workers send back large remittances to cover the loan each month. The broker continues to raise the interest rates and threatens the family if they pay late. The broker has no link to the sourcing agent, labour provider or labour user.

Potential remedial steps

- Labour user and/or labour provider interviews workers with their representatives to ascertain level of fees they have paid and cross check information between interviewees.
- Seek support and guidance from local NGOs and government officials on how to manage the fees already paid and still owed to the broker. If possible, secure judicial restitution including the prosecution of the broker for illegal loans and threatening the families. If necessary, identify a local NGO that can support the workers' families with access to legal services.
- Where civil compensation is not available, secure an agreement between parties (labour user, labour Provider, worker representatives, affected workers) on the level of fees to be reimbursed and responsibility for repayment, drawing on contingency funds where available.
- Labour user, labour provider and subagents work together to improve due diligence processes to ensure all job advertisements clearly state that no fees are charged to workers and that this is explained to workers in their own language as part of the application process.

Scenario 4 – Reimbursing fees to existing workers



An overseas supplier to the Brand/Retailer has previously recruited migrant workers to its factory on a model where the workers paid recruitment fees to both the origin country sourcing agent and the destination country recruitment agent. These fees were legal in both countries. The supplier and its labour providers are willing to transition to an ‘Employer Pays Principle’ model in order to continue supplying to your business. They are concerned however about the disparity between existing migrant workers at the factory who have paid recruitment fees, and new migrant workers who won’t have paid recruitment fees. They say they cannot afford to reimburse the workers that have paid recruitment fees and this was not previously a requirement.

Potential remedial steps

- Brands & retailers, labour users and labour providers work together to agree a practicable model for reimbursing existing workers.
- Engage with workers’ legitimate representatives to try to come to an arrangement that existing workers feel is fair whilst explaining the financial implications of immediately returning all fees to existing workers. For example, workers may agree to a structuring of repayments that makes it more manageable such as, spreading out the repayments over the remainder of their employment contract or subsidising the repayment by eliminating deductions for food and housing for the remainder of the contract.
- Any arrangements agreed with worker representatives must be transparent and clearly documented e.g. in worker communications and in wage slips in a language that is understood by the affected workers.

Appendix 4

GLOBAL CASE STUDIES OF REPAYMENT OF RECRUITMENT FEES AND REMEDIATION

Agriculture | UK | Supplier

Source: Confidential testimony from the supplier involved. Business names removed to protect anonymity.

A large supplier conducted an audit of a UK site as part of its supply chain due diligence. During the course of the audit a worker remarked that they were made to stay in set accommodation. This was discussed further with the site in private and it was ascertained that workers supplied by the site's labour provider could only get work if they lived in set accommodation.

The supplier reported the issue to the relevant enforcement body and provided additional support and intelligence. Investigation determined that all recruitment costs and accommodation debts were rolled into one fee for each worker which had the effect of bonding them to the labour provider. Workers were charged for the recruitment and accommodation in the form of a debt with high interest rates.

The enforcement body took action to ensure the labour provider reimbursed workers and the supplier provided direct employment to the workers.

ICT | Japan | Apple

Source: Apple 2018 Statement on Efforts to Combat Human Trafficking and Slavery in Our Business and Supply Chains <https://www.apple.com/supplier-responsibility/pdf/Apple-Combat-Human-Trafficking-and-Slavery-in-Supply-Chain-2018.pdf>

In 2018, two cases of debt-bonded labor were uncovered in Japan at two sites supplying into Apple. In each case, Apple required its supplier to repay all fees to their impacted employees. A total of US\$616,000 in recruitment fees was repaid to 287 supplier employees. Reimbursement amounts were based on the range of fees identified through worker interviews and cross verification with applicable labour agencies or the supplier. The average of the total self-reported fees was taken. If there is a dispute on the fee scope, amount, or date of repayment, Apple engages directly with the supplier to address the objection and enforce repayment to impacted workers. Finally, through third party auditors, Apple conducts verification of all payments made.

Construction | Qatar | Supreme Committee (SC) for Delivery and Legacy

Source: Qatar Supreme Committee for Delivery and Legacy | <https://sc.qa/en/opportunities/workers-welfare/the-journey/recruitment>

The SC's Workers' Welfare Standards forbid the practice of charging recruitment fees and it conducts regular ethical audits to find out if any workers have been targeted by these practices. Since late 2017, the SC has worked with its contractors to reimburse recruitment fees to workers, even if workers don't have proof of payment. By December 2020, the SC estimates that almost QAR 94.57 million (USD 25.97 million) will be repaid to around 39,000 workers on SC and non-SC projects. For example, through audits, the SC's Workers' Welfare team discovered 30 Ghanaian workers who had paid recruitment fees to come to Qatar. When word spread that the SC was taking action on unethical recruitment fees, many workers came forward with receipts. They had all paid recruitment fees. The SC and the main contractor brought the recruiting agents to Qatar and verified that every worker got their money back.

Appendix 5

BRANDS' & RETAILERS' TEMPLATE EMPLOYER PAYS PRINCIPLE AND REPAYMENT OF RECRUITMENT FEES POLICY

N.B. This is a template; to be modified as required for inclusion within the wider Ethical Trading/Ethical Procurement/Human Rights/Responsible Recruitment Policy of your business.

1. Scope

This policy applies to [Brand] suppliers in situations where they use workers that are supplied by labour providers and includes an organisation's goods for resale and goods not for resale suppliers and service providers, such as catering, security, office cleaning, logistics and distribution.

For the purposes of this policy, the supplier is the first-tier supplier to [Brand] who is responsible for the application of this policy to their own labour providers and to all the labour providers used by their suppliers i.e. [Brand's] second, third, fourth tier etc. suppliers.

2. Policy Principles

- 2.1 **Employer Pays Principle:** No worker should pay for a job – the costs of recruitment should be borne not by the worker but by the employer.
- 2.2 **Repayment of Recruitment Fees:** If it is discovered that workers have paid recruitment fees, the full cost of those fees should be reimbursed to the worker by the business partner that is responsible for the violation, including for any sub-agents in the recruitment supply chain where this was within the reasonable due diligence control of the business partner.

3. Supplier Policy Implementation

Suppliers of [Brand] branded products must implement appropriate management processes to meet the following requirements:

- 3.1 In line with the ILO, recruitment fees and related costs should not be charged to workers by suppliers, their subsidiaries, labour providers or other parties providing related services. Fees or related costs should not be collected directly or indirectly. "Indirectly" in this context means that a labour provider must not:
 - charge workers for purportedly optional services which are in fact integral to the recruitment process;
 - make providing recruitment services conditional on the worker using other services or hiring or purchasing goods provided by the labour provider or any person connected to them.
- 3.2 Suppliers and Labour Providers must not require workers to lodge deposits or withhold any guarantee money, 'runaway insurance', surety bond, commitment or membership or reservation fees, deposits or recruitment fee sums from pay or otherwise to enable or facilitate recruitment, discourage departure or other similar purpose.
- 3.3 Suppliers (including employees and representatives) must not, nor require or accept the labour provider to, charge back or accept reimbursement from any worker supplied to recover any fees paid by the supplier or labour provider in the recruitment or hiring of the worker.
- 3.4 Suppliers must ensure that labour providers provide full transparency of their recruitment supply chain including written details of the use of any third-party labour sourcing agents and sub-agents that may be used and the terms of engagement that exist.

- 3.5 Suppliers must work with labour providers to agree a sustainable price which supports them to cover the costs of recruitment so these are not passed on to workers.
- 3.6 Suppliers must introduce effective systems to maintain records demonstrating that all recruitment fees and related costs have been paid by the businesses involved at every stage in the recruitment process, and not by the worker.
- 3.7 Recruitment costs must be paid directly where possible. When not possible, or where the worker is legally required to pay a fee or cost directly, the worker shall be reimbursed by the employer as soon as practicable upon discovery.
- 3.8 Suppliers must ensure through appropriate systems and due diligence that workers are informed throughout the recruitment process and again on commencement of employment that they do not bear any costs of recruitment and fully understand any authorised expenses payable such as accommodation.
- 3.9 Suppliers and their labour providers should have mechanisms in place for the confidential reporting of violations of these standards by their employees, workers and their representatives.
- 3.10 Suppliers must have a repayment of recruitment fees policy commitment which sets out how workers will be compensated for any recruitment fees that they have incurred in any scenario.
- 3.11 The commercial agreement between suppliers and any labour providers should contain clauses to the above effect and:
 - hold labour providers liable for their own violations and also for those of the sub-agents in the recruitment supply chain where this was within the reasonable due diligence control of the labour provider;
 - include a requirement and process to reimburse current and ex-workers that have been charged direct or indirect recruitment fees within a reasonable and defined time period.

4. [Brand] Policy Implementation

[Brand] will also implement the Policy in relation to its own business:

- 4.1 [Brand] will communicate the principles and terms of implementation of this Policy with our own employees, with appropriate training on its application and with sanctions in place to censure employees found to be in breach of the policies. [Brand] will also publicly communicate our commitment to the Employer Pays policy and advocate for wider adoption of this approach amongst the business community.
- 4.2 [Brand] will undertake our own due diligence to ensure that the above policies are implemented for labour providers into our own operations and by suppliers and labour providers throughout our supply chain.
- 4.3 [Brand] will include the principles and terms of implementation of this Policy in all contracts and service agreements with suppliers and labour providers with penalties in case of non-compliance with the Policy.
- 4.4 [Brand] have our own mechanisms to support the confidential reporting of violations of these standards by our own workforce and the workers of suppliers and labour providers in our supply chain. These include:
 - [Include details of all internal, confidential, and third-party grievance mechanisms accessible to your own employees and to workers in your supply chains (whether provided by the Brand or its suppliers).]
- 4.5 Where workers are found to have paid recruitment fees in our supply chain, [Brand] will seek to use the terms of our contracts and our leverage to ensure effective remedy including restitution, compensation, rehabilitation and satisfaction and guarantee of non-repetition as appropriate.
- 4.6 [Brand] will seek to develop a contingency fund for remediation which can be drawn on when other routes to repay workers (e.g. commercial terms, leverage or judicial mechanisms) have been exhausted.

Appendix 6

LABOUR USERS' TEMPLATE EMPLOYER PAYS PRINCIPLE AND REPAYMENT OF RECRUITMENT FEES POLICY

N.B. This is a template; to be modified as required for inclusion within the wider Ethical Trading/Ethical Procurement/Human Rights/Responsible Recruitment Policy of your business.

1. Scope

This policy applies where [Labour user] engages a labour provider to source and supply workers and includes:

- Recruitment services – where the labour provider sources workers to be employed by [Labour user], without the labour provider becoming a party to the employment relationship that may arise therefrom
- Employment services – where the labour provider employs workers and supplies them to [Labour user] to assigns their tasks and supervises the execution of these tasks
- Other services relating to job-seeking as may be relevant.

2. Policy Principles

- 2.1 **Employer Pays Principle:** No worker should pay for a job – the costs of recruitment should be borne not by the worker but by the employer.
- 2.2 **Repayment of Recruitment Fees:** If it is discovered that workers have paid recruitment fees, the full cost of those fees should be reimbursed to the worker by the business partner that is responsible for the violation, including for any sub-agents in the recruitment supply chain where this was within the reasonable due diligence control of the business partner.

3. Policy Implementation

3.1 Employer Pays Principle

- In line with the ILO, recruitment fees and related costs should not be charged to workers by [Labour user], our subsidiaries, suppliers, labour providers or other parties providing related services. Fees or related costs should not be collected directly or indirectly. "Indirectly" in this context means that a labour provider must not:
 - charge workers for purportedly optional services which are in fact integral to the recruitment process;
 - make providing recruitment services conditional on the worker using other services or hiring or purchasing goods provided by the labour provider or any person connected to them.
- [Labour user] employees and representatives will not require or accept the labour provider to, charge back or accept reimbursement from any worker supplied to recover any fees paid by [Labour user] or labour provider in the recruitment or hiring of the worker.
- [Labour user] requires labour providers to provide full transparency of their recruitment supply chain including written details of the use of any third-party labour sourcing agents and sub-agents that may be used and the terms of engagement that exist. [Labour user] reserves the right to veto any such recruitment supply chain parties or practices. The labour sourcing process including all intermediaries will form part of the written service level agreement between [Labour user] and the labour provider.

- [Labour user] will work with our labour providers to agree a sustainable price which supports them to cover the costs of recruitment so these are not passed on to workers.
- [Labour user] will ensure effective systems are in place to maintain records demonstrating that all recruitment fees and related costs have been paid by the businesses involved at every stage in the recruitment process, and not by the worker.
- Recruitment costs must be paid directly where possible. When not possible, or where the worker is legally required to pay a fee or cost directly, the worker shall be reimbursed by [labour user] or its labour providers as soon as practicable upon discovery.
- [Labour user] will ensure that the written legal contract with its labour provider that governs the terms of supply contains terms to prohibit the charging of recruitment fees and related costs or for services that are integral to the recruitment process and prohibits requiring workers to lodge deposits or withhold any guarantee money, 'runaway insurance', surety bond, commitment or membership or reservation fees, deposits or recruitment fee sums from pay or otherwise to enable or facilitate recruitment, discourage departure or other similar purpose.
- [Labour user] will implement the necessary systems and due diligence to verify workers are informed during the recruitment process and again on commencement of employment that they do not bear any costs of recruitment and fully understand any authorised expenses payable such as accommodation.
- [Labour user] will communicate the principles and terms of implementation of this Policy with its own employees, with appropriate training on its application and with sanctions in place to censure employees found to be in breach of the policies. They will also publicly communicate our commitment to the Employer Pays policy and advocate for wider adoption of this approach amongst the business community.
- [Labour user] requires labour providers to have mechanisms in place for the confidential reporting of violations of these standards by their employees, workers and their representatives. [Labour user] also has its own mechanisms to support the confidential reporting of violations of these standards by directly recruited workers and workers supplied by labour providers. These include:
 - [Include details of all internal, confidential, and third-party grievance mechanisms accessible to your own employees and to workers in your supply chains.]

3.2 Repayment of Recruitment Fees and Remediation

- [Labour user] and labour provider will ensure that the written legal contract that governs the terms of supply contains commercial terms to:
 - Hold the labour provider commercially liable for its own violations and those of its staff and representatives acting with and without authorisation, with a contractual requirement and process to reimburse workers that have been charged for work finding services and other such charges as so described above. This process should include but not be limited to the following actions under the supervision of [Labour user] and other appropriate representatives such as worker representatives, NGOs, customer brands and retailers, and/or workers' legal representatives:
 - Conduct a thorough investigation to determine who is responsible for the violation, and whether this was within the reasonable due diligence control of the labour provider.
 - The investigation should be conducted in an ethical manner, ensuring workers and their families are protected at all times. Workers and any elected worker representatives should be consulted and kept informed of their options at all stages of the remediation process.
 - Gather all available evidence relating to the charging of recruitment fees, including statements from workers on the levels of fees, where available any receipts and/or communications between workers and labour providers regarding fees. Where a number of workers are affected and linked to the same labour provider, cross-check information on fees reported by the workers.

- Seek support and guidance from local NGOs and/or government officials on how to manage the situation and report instances of criminal exploitation to the relevant authorities, where they are trusted.
- Secure an agreement between parties (Labour user, Labour Provider, worker representatives, affected worker(s)) on the level of fees to be reimbursed.
- Labour Provider to reimburse the agreed fees within an agreed timeframe (defined in the written process) into a bank account in the worker's name.
- Terminate the contract with the labour provider if there has been a gross violation of terms and explicit intent to exploit workers, after ensuring workers will not be negatively impacted by this termination.
- Where appropriate, refer victims to support organisations.
- Provide other appropriate remedy to the workers impacted including seeking judicial restitution for any crimes, seeking support for the rehabilitation of victims harmed, and guarantee of non-repetition.
- Hold the labour provider commercially liable for the violations of sub-agents in the recruitment supply chain where in the reasonable determination of [Labour user] this was within the due diligence control of the labour provider, with a contractual requirement and process to reimburse current and ex-workers that have been charged for recruitment fees and related costs as so described above. This process should follow the actions described above.
- Include a process to reimburse current and ex-workers that have been charged recruitment fees and related costs as so described above where in the reasonable determination of [Labour user] this was not within the due diligence control of the labour provider. This process should follow the actions described above but with an agreement between [Labour user], Labour Provider and other relevant parties in the supply chain (e.g. Brands & Retailers) to support this process in partnership e.g:
 - Using their joint leverage to seek judicial restitution for illegal fee charging
 - Using their joint leverage to seek compensation from civil procedures where workers are victims of crimes
 - Contributing to programmes and collaborative projects to address systemic issues of fee charging and drive out worker exploitation in your industry or country.
 - Developing a contingency fund for remediation which can be drawn on when other routes to repay workers (e.g. commercial terms, leverage or judicial mechanisms) have been exhausted
 - Where possible, sharing the burden of reimbursing recruitment fees where civil compensation is not available

Appendix 7

LABOUR PROVIDERS' TEMPLATE EMPLOYER PAYS PRINCIPLE AND REPAYMENT OF RECRUITMENT FEES CODE OF PRACTICE

N.B. This is a template; to be modified as required for inclusion within the wider Ethical Trading/Ethical Procurement/Human Rights/Responsible Recruitment Policy of your business.

1. Scope

This Code of Practice applies to [labour provider's] sourcing and supply of workers and includes:

- Recruitment services – where [labour provider] sources workers to be employed by labour users, without [labour provider] becoming a party to the employment relationship that may arise therefrom
- Employment services – where [labour provider] contracts with workers and supplies them to labour user clients who assign their tasks and supervise the execution of these tasks.

2. Policy Principles

- 2.1 Employer Pays Principle: No worker should pay for a job – the costs of recruitment should be borne not by the worker but by the employer.
- 2.2 Repayment of Recruitment Fees: If it is discovered that workers have paid recruitment fees, the full cost of those fees should be reimbursed to the worker by the business partner that is responsible for the violation, including for any sub-agents in the recruitment supply chain where this was within the reasonable due diligence control of the business partner.

3. Policy Implementation

3.1 Employer Pays Principle

- In line with the ILO, recruitment fees and related costs should not be charged to workers by [Labour provider], any recruitment intermediaries or other parties providing related services. Fees or related costs should not be collected directly or indirectly. "Indirectly" in this context means that a labour provider will not:
 - charge workers for purportedly optional services which are in fact integral to the recruitment process;
 - make providing recruitment services conditional on the worker using other services or hiring or purchasing goods provided by the labour provider or any person connected to them.
- [Labour provider] and its representatives will not charge back or accept reimbursement from any worker supplied to recover any fees paid by [labour provider] or labour user clients in the recruitment or hiring of the worker.
- [Labour provider] commits to provide to labour user clients, full transparency of its recruitment supply chain including written details of the use of any third-party labour sourcing agents and sub-agents that may be used and the terms of engagement that exist. [Labour provider] accepts that its Labour user clients have the right to veto any such recruitment supply chain parties or practices. The labour sourcing process including all intermediaries will form part of the written service level agreement between [labour provider] and its Labour user clients.

- [Labour provider] will work with our recruitment intermediaries to agree a sustainable price which supports them to cover the costs of recruitment so these are not passed on to workers.
- [Labour provider] will ensure effective systems are in place to maintain records demonstrating that all recruitment fees and related costs have been paid by the businesses involved at every stage in the recruitment process, and not by the worker.
- Recruitment costs must be paid directly where possible. When not possible, or where the worker is legally required to pay a fee or cost directly, the worker shall be reimbursed by the labour user or [labour provider] as soon as practicable upon discovery.
- [Labour provider] confirms that the written legal contract that governs the terms of supply with Labour user clients contains terms to prohibit the charging of recruitment fees and related costs or for services that are integral to the recruitment process and prohibits requiring workers to lodge deposits or withhold any guarantee money, ‘runaway insurance’, surety bond, commitment or membership or reservation fees, deposits or recruitment fee sums from pay or otherwise to enable or facilitate recruitment, discourage departure or other similar purpose.
- [Labour provider] will implement the necessary systems and due diligence to verify workers are informed during the recruitment process that they do not bear any costs of recruitment and fully understand any authorised expenses payable such as accommodation.
- [Labour provider] will communicate the principles and terms of implementation of this Policy with our own employees, with appropriate training on its application and with sanctions in place to censure employees found to be in breach of the policies. [Labour Provider] will also publicly communicate our commitment to the Employer Pays policy and advocate for wider adoption of this approach amongst the labour provider community.
- [Labour provider] has mechanisms to support the confidential reporting of violations of these standards by workers that they source and supply into Labour users. These include:
 - [Include details of all internal, confidential, and third-party grievance mechanisms accessible to workers that you source and supply into Labour users.]

3.2 Repayment of Recruitment Fees and Remediation

- [Labour provider] will ensure that the written legal contract with Labour user clients that governs the terms of supply contains commercial terms to:
 - Holds [labour provider] commercially liable for its own violations and those of its staff and representatives acting with and without authorisation with a contractual requirement and process to reimburse current and ex-workers that have been charged for work finding services and other such charges as so described above. This process should include but not be limited to the following actions under the supervision of the Labour user and other appropriate representatives such as worker representatives, customer brands and retailers, NGOs and/or workers’ legal representatives:
 - Conduct a thorough investigation to determine who is responsible for the violation, and whether this was within the reasonable due diligence control of the labour provider.
 - The investigation should be conducted in an ethical manner, ensuring workers and their families are protected at all times. Workers and any elected worker representatives should be consulted and kept informed of their options at all stages of the remediation process.
 - Gather all available evidence relating to the charging of recruitment fees, including statements from workers on the levels of fees, where available any receipts and/or communications between workers and labour providers regarding fees. Where a number of workers are affected and linked to the same labour provider, cross-check information on fees reported by the workers.
 - Seek support and guidance from local NGOs and/or government officials on how to manage the situation and report instances of criminal exploitation to the relevant authorities, where they are trusted.

- Secure an agreement between parties (Labour user, Labour Provider, worker representatives, affected worker(s)) on the level of fees to be reimbursed.
- Labour Provider to reimburse the agreed fees within an agreed timeframe (defined in the written process) into a bank account in the worker's name.
- Terminate the contract with the labour provider if there has been a gross violation of terms and explicit intent to exploit workers, after ensuring workers will not be negatively impacted by this termination.
- Where appropriate, refer victims to support organisations.
- Provide other appropriate remedy to the workers impacted including seeking judicial restitution for any crimes, seeking support for the rehabilitation of victims harmed, and guarantee of non-repetition.
- Hold [labour provider] commercially liable for the violations of sub-agents in the recruitment supply chain where in the reasonable determination of Labour user clients this was within the due diligence control of [labour provider] with a contractual requirement and process to reimburse current and ex-workers that have been charged for recruitment fees and related costs as so described above. This process should follow the actions described above.
- Include a process to reimburse current and ex-workers that have been charged for recruitment fees and related costs as so described above where in the reasonable determination of the Labour user this was not within the due diligence control of [labour provider]. This process should follow the actions described above but with an agreement between the Labour user, [Labour provider] and other relevant parties in the supply chain (e.g. Brands & Retailers) to support this process in partnership e.g:
 - Using their joint leverage to seek judicial restitution for illegal fee charging
 - Using their joint leverage to seek compensation from civil procedures where workers are victims of crimes
 - Contributing to programmes and collaborative projects to address systemic issues of fee charging and drive out worker exploitation in your industry or country.
 - Developing a contingency fund for remediation which can be drawn on when other routes to repay workers (e.g. commercial terms, leverage or judicial mechanisms) have been exhausted
 - Where possible, sharing the burden of reimbursing recruitment fees where civil compensation is not available.

TEMPLATE TO CALCULATE RECRUITMENT FEES AND RELATED COSTS FOR THE SUPPLY OF MIGRANT WORKERS

This template document is intended for labour users and labour providers to collaboratively agree a commercially sustainable charge which covers the costs of all recruitment fees so these are not passed on to workers. This charge will differ for each sourcing country, as each country will have its own unique costs for legally required fees such as documentation and pre-deployment medical exams. Itemising these costs transparently will:

- Support labour users to budget accordingly for the true/legitimate costs of recruitment.
- Support labour providers to run a sustainable business model without the need to push costs down to workers.
- Provide labour users with an inventory of fees for which documentary evidence should be available from the labour provider to demonstrate they have paid these costs or reimbursed workers for them. Brands, retailers and third-party auditors could also verify this inventory and documentary evidence through desk-based audits, site visits and social compliance audits.
- Provide labour users with an inventory of fees and related costs which they can go through with workers in interviews to confirm that they have not paid these fees, or have been reimbursed for them, and have not paid any additional fees or charges that have not been itemised.

Template table to calculate recruitment fees for the supply of migrant workers

Labour user				
Labour Provider				
Date of recruitment campaign				
Sourcing country				
Number of workers				
	Nature of fee and numeric code	Cost per worker	Paid directly or reimbursed?	Receipt attached?
1. General overhead, processing, advertising and sourcing costs				
2. Pre-departure				
3. In-transit				
4. On-arrival				
5. During employment				
6. End of employment				
7. Sub-agents used <i>Overhead costs for any intermediaries</i>				
8. Labour provider overheads and net margin				
	Total			

Appendix 9

SAMPLE WORKER INTERVIEW QUESTIONS ON RECRUITMENT FEES AND RELATED COSTS

The following is a range of sample questions which could be included in worker interviews when migrant workers commence employment, after 1 month, after 3-6 months and after 12 months. The interview could focus only on recruitment fees or these questions could be incorporated into a broader workplace interview.

Best practice around worker interviewing techniques should be followed, i.e. building rapport with the workers, taking a supportive style of approach, conducting interviews in a safe space, ensuring confidentiality of responses given, and amending the questions where necessary to ask the information sensitively.

1	Which labour providers/labour users do you work for?
2	How did you find out about the work?
3	Who was involved in getting you this job?
4	Tell me about any fees that you paid to get this job (what they were for, how much you paid, any deposits, and who you paid e.g. the labour provider, someone in your local community, a travel agent etc.).
5	What receipts do you have for any fees you paid for the job?
6	Have you been reimbursed for any of the fees you've paid, and if so, how and for which fees?
7	How were you able to pay the fees? Did you have to borrow any money, and if so from whom?
8	If so, what are the terms of the loan? (e.g. interest rates, length of repayment)
9	If you borrowed from a moneylender, how did you find out about them? (E.g. did the labour provider or labour user recommend the lending agency?)
10	If yes, was borrowing from that company a requirement of getting the job?
11	How are you repaying money that you still owe for fees that you've paid for this job?
12	If you saw a job advertisement, was there any information in it about recruitment fees? What did it say if so?
13	During the interview process, what information was given to you about any fees you did or didn't need to pay?
14	Do you feel that information about fees was explained to you clearly?
15	What information was in your contract about paying fees?
16	How did you arrive in this country?
17	Who arranged and paid for the travel?
18	Who is paying for your return travel home?
19	What documentation did you need to travel to and work in this country?
20	Who arranged and paid for this documentation?

RELEVANT DEFINITIONS

Debt bondage⁴⁰: Also known as debt-induced forced labour and bonded labour. This involves the taking of a loan or an advance of wages by a worker from a labour user or labour provider in return for which the worker pledges his or her labour and sometimes that of family members to pay back the loan. Debts may be passed onto the next generation.

Forced labour⁴¹: Refers to “all work or service which is exacted from any person under menace of any penalty” for which he or she has not offered themselves voluntarily. Persons are in a forced labour situation if they enter work or service against their freedom of choice and cannot leave it without penalty or the threat of penalty. This does not have to be physical punishment or constraint. It can also take other forms, such as the loss of rights or privileges, retention of identity papers or threats of denunciation to immigration authorities.

Migrant worker: As per the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families definition, a migrant worker is “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national”. For the purposes of this guide, this definition is extended to “internal” migrant workers who migrate from one area or territory to another to seek employment. In both forms of migration, the legal status of the individual worker may change.

Modern slavery⁴²: This is a broad term used to encompass the offences of slavery, servitude and forced or compulsory labour and human trafficking. The term extends to slavery-like practices such as debt bondage, sale or exploitation of children and forced or servile marriage. While varied in nature, all involve one person depriving another person of their liberty, in order to exploit them for personal or commercial gain.

Sub agents: Are any third parties used by a labour provider to help facilitate the recruitment, selection, hiring, and/or transportation of foreign migrant workers. These agents may be informal and unlicensed, with no formal contract with the labour provider. Or, they may be a registered entity which has a formal contract with the labour provider to provide some portion of the work or services on a project which the contractor has agreed to perform.

Recruitment: Includes the advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of origin where applicable.

Trafficking in persons⁴³: Trafficking in persons, or human trafficking, can lead to forced labour or slavery. This is the act of “recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”

When trafficking leads to forced labour, people are tricked and deceived or coerced into travelling to a job that either never existed or, if it did, the terms and conditions were not as stated. It is important to note that:

- The victim may consent to the travel, for example in cases where they are deceived by the promise of a better life or job or where a child is influenced to travel by an adult;
- Travel need not be cross border but may be within country;
- The exploitation of the potential victim does not need to have taken place - simply that the movement of the individual was with a view to exploiting them.

Worker: For the purposes of this toolkit, the term ‘workers’ refers to those workers supplied by the labour provider who may be variously engaged on an employment contract, a self-employed basis or somewhere in between depending on the model of supply and the national context. The term worker includes jobseekers.

40. International Labour Organisation, *Combating Forced Labour, A Handbook for Employers and Business*, 2015 http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_101171.pdf

41. International Labour Organisation, *Combating Forced Labour, A Handbook for Employers and Business*, 2015, definition from ILO Convention No. 29 (1930) http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_101171.pdf

42. See OHCHR *Abolishing Slavery and its Contemporary Forms* - David Weissbrodt and Anti-Slavery International

43. Defined in the United Nations Convention against Transnational Organized Crime Protocol to Prevent, Suppress and Punish Trafficking in Persons Article 3, paragraph (a).

Appendix 11

RESOURCE BANK

Adidas

- Guidelines on Employment Standards: http://www.adidas-group.com/media/filer_public/2013/07/31/guidelines_on_employment_standards_english.pdf

Alliance 8.7

- Global Estimates of Modern Slavery: https://www.alliance87.org/wp-content/uploads/2018/07/global_estimates_of_modern_slavery-forced_labour_and_forced_marriage.pdf

Amnesty International

- Turning People Into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers: <https://www.amnesty.org/en/documents/asa31/6206/2017/en/>

Apple

- 2018 Statement on Efforts to Combat Human Trafficking and Slavery in Our Business and Supply Chains: <https://www.apple.com/supplier-responsibility/pdf/Apple-Combat-Human-Trafficking-and-Slavery-in-Supply-Chain-2018.pdf>

ASOS

- ASOS Migrant and Contract Worker Policy: <https://www.asosplc.com/~media/Files/A/Asos-V2/documents/corporate-responsibility/asos-migrant-worker-guidelines-2017.pdf>

Business Social Responsibility

- Migrant Worker Management Toolkit: A Global Framework: https://www.bsr.org/reports/BSR_Migrant_Worker_Management_Toolkit.pdf

Coca Cola

- Issuance guidance: <https://www.coca-colacompany.com/content/dam/journey/us/en/private/fileassets/pdf/2014/02/issuance-guidance.pdf>
- Electronics Watch: Guidance for Remediation and Prevention of Migrant Worker Recruitment Fees and Related Costs in Public Procurement: http://electronicswatch.org/guidance-for-remediation-and-prevention-of-migrant-worker-recruitment-fees-and-related-costs-in-public-procurement-april-2019_2557767.pdf

European Commission

- Employment and Recruitment agencies and the UNGP: http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/employment_and_recruitment_agencies.pdf
- My business and human rights - A guide to human rights for small and medium-sized enterprises: <https://business-humanrights.org/sites/default/files/documents/SME-BHR-guide-EU.pdf>

GLAA:

- Job finding fees and providing additional services: <http://www.gla.gov.uk/media/1527/glabrief-38-jobndingfeesandprovidingadditionalservices.pdf>

Hewlett-Packard

- Company Supply Chain Foreign Migrant Worker Standard Guidance Document: <http://www8.hp.com/h20195/v2/GetPDF.aspx/c05116077.pdf>

ICCR:

- The “No Fees” Initiative - Promoting Ethical Recruitment Policies in Global Supply Chains: http://www.iccr.org/system/les/reportpub_prop_attachments/2015iccrnofeesnal06.30.15.pdf
- Best Practice Guidance on Ethical Recruitment of Migrant Workers: http://www.iccr.org/sites/default/les/iccrsbestpracticeguidanceethicalrecruitment05.09.17_nal.pdf

IHRB

- Recruitment Fees briefing: https://www.ihrb.org/uploads/briefings/2016-05%2C_IHRB_Briefing%2C_Recruitment_Fees.pdf
- Fees and IDs: Tackling recruitment fees and confiscation of workers’ passports: https://www.ihrb.org/pdf/2013-09-06_IHRB_Fees-and-IDs-Report.pdf
- Six steps to Responsible Recruitment – Leadership Group for Responsible Recruitment: https://www.ihrb.org/uploads/member-uploads/Six_Steps_to_Responsible_Recruitment_-_Leadership_Group_for_Responsible_Recruitment.pdf
- Migrant worker recruitment fees – the increasing debt burden - https://www.ihrb.org/uploads/member-uploads/Migrant_Worker_Recruitment_Fees_-_The_Increasing_Debt_Burden_-_Leadership_for_Responsible_Recruitment.pdf

ILO

- General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_703485.pdf
- Summary of Global study on recruitment fees and related costs: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/meetingdocument/wcms_646693.pdf

NYU Stern: Center for Business and Human Rights

- Recruitment of the Migrant Labor Force in the Gulf Construction Industry: <https://static1.squarespace.com/static/547df270e4b0ba184dfc490e/t/58ec1e9ed1758e3915cb4c5b/1491869348464/FINALFINAL-MakingWorkersPay-Report-Digital.pdf>

Responsible Business Alliance (previously EICC):

- Definition of fees: <http://www.responsiblebusiness.org/media/docs/Definition%20of%20Fees%20Final%20Approved%20Aug%202015.pdf>

Sedex

- Guidance on Operational Practice & Indicators of Forced Labour <https://cdn.sedexglobal.com/wp-content/uploads/2016/03/Sedex-Guidance-on-Operational-Practice-and-Indicators-of-Forced-Labour.pdf>

UNGC:

- Eliminating recruitment fees: https://www.unglobalcompact.org/docs/issues_doc/labour/tools_guidance_materials/labour-recruitment-fees.pdf

Verite:

- Fair Hiring Framework: http://helpwanted.verite.org/sites/default/les/images/Verite-Help-Wanted-A_Fair_Hiring_Framework_for_Responsible_Business.pdf
- An ethical framework for crossborder labour recruitment: https://www.verite.org/wp-content/uploads/2016/12/ethical_framework_paper.pdf

World Employment Confederation:

- Code of conduct: https://www.wecglobal.org/uploads/2019/07/2017_WEC_Code-Conduct.pdf
- Compendium of voluntary initiatives promoting ethical recruitment practices: https://www.wecglobal.org/uploads/2019/07/WEC_Compendium-Practices-Ethical-Recruitment.pdf
- Defining the Business Case: Ethical Recruitment: https://www.wecglobal.org/uploads/2019/07/WEC_Business-Case-Ethical-Recruitment.pdf



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