

# Recruitment fees for foreign workers

Due diligence on recruitment practices for robust Human Rights compliance

KPMG in Malaysia



## Recruitment Fees

Recruitment fees for foreign workers have been a contentious issue in recent years because of the ambiguities surrounding whether it should be borne by the employer, employee or recruitment agencies. The reality is that fees are normally imposed on the workers to cover the costs of recruitment such as passport fees, visa fees, transportation and lodging in the host country to obtain employment. Under the universal definition by the International Labour Organization (“ILO”), the terms ‘recruitment fees’ or ‘related costs’ refer to any fees or costs incurred in the recruitment process for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection.

The costs charged to migrant workers to secure employment abroad are often substantial. In addition, workers may acquire loans to afford these fees amidst the promise of potential future earnings. In a press conference on 8 February 2023, the Prime Minister of Malaysia mentioned that Nepali workers were paying RM3,700 as compared to Bangladeshi and Nepali workers paying between RM20,000 to RM25,000.<sup>1</sup> Examples of cost items that are commonly placed on foreign workers to pay out of their own pockets would be:

Pre-departure	Agent fee	Levy fee	Visa fee	Work permit	Medical check-up	Insurance fees	Airfare costs	Passport fees
	BMET (Bangladesh)		PDOT (Nepal)		BESTINET (Indonesia)		E-Migrate (India)	
Arrival	Medical check-up fee				Land transportation			

It is imperative to uphold the rights and dignity of the workers when it comes to issues of forced labor. Therefore, organizations and recruitment agencies should partake in efforts to remediate the issue in hand to reach a common ground to ultimately prevent legal sanctions. In addition, organizations should also practice ethical recruitment practices to be fair and transparent in business transactions.

In recent years, Malaysia as a member-state of the ILO, has adopted a “no recruitment fee” concept from its Fair Recruitment Initiative in 2014 whereby it has been implemented verbally to disclose the responsibilities of the employers in bearing the costs of recruitment.<sup>2</sup> Apart from this, the government has also declared that no persons shall be held in slavery and that forced labor in any form is forbidden. This commitment can be seen in the 2nd phase of the ILO’s Migrant Workers Empowerment and Advocacy (MWEA) project which was inaugurated on 3 February 2023 in Kuala Lumpur.<sup>3</sup>

Based on our experience with human rights audits on recruitment fees for numerous industries such as plantations and manufacturing, it was observed that workers have mentioned paying a substantial amount of money which can be considered “excessive” and as such could result in workers being bonded by debt. Evaluation based on the organization’s value chain was also conducted for financial institutions which concluded that most of the contractors were unaware of the policies needed to bring awareness on the recruitment fee guidelines and the due diligence process needed due to the lack of monitoring systems.

1. [Malaysia may look into stopping the use of third-party agents to recruit foreign workers](#), Human Resources Online, 10 February 2023  
 2. [Forced labour: Loopholes in the law may keep M’sia in Tier 3 chasm](#), Malaysiakini, 13 July 2022  
 3. [New ILO initiative to help protect migrant worker wages in Malaysia](#), International Labour Organization, February 2023

# Among the significant challenges that can be seen are in the aspects of:

## 01 Gaps in company policy and internal procedures

Thorough due diligence on an organization's recruitment practices is complex when the organization deals with multiple contractors in the supply chain. Assessments on the recruitment procedures may not uncover the potential conditions of workers at the lower ends of supply chains. Hence, there could be a possibility of workers' rights being violated based on the 11 ILOs during assessments.

## 02 Documentation and recordkeeping

It can be a challenge for companies to reimburse workers for illegal recruitment fees because it is uncommon for agents to provide receipts or other documents to show the actual costs of recruitment. Recruitment agencies have occasionally provided receipts on the statutory amounts imposed by the government however it does not translate to the actual amount paid by the workers. Hence, the only solution is to rely on workers' testimonies about the actual fees paid by the workers.

## 03 Awareness and knowledge of recruitment procedures among migrant workers

Many migrant workers lacked awareness and knowledge about their rights and responsibilities during the recruitment process and their employment. This is because of their inability to grasp the content of their contracts due to language barriers or were not briefed by their agents in the home country.



## What does this mean for Employers?



### Commit to transparency and open communication

The ambiguities in communication between an employer and employee could lead to misunderstandings, distrust and dissatisfaction. Therefore, being transparent in recruitment procedures enables employers to make more cost-effective decisions whilst fostering stronger relationships between an organization and recruitment agents. In addition, employers who are transparent can provide clear roles and responsibilities to prevent any future misrepresentations in the job scope.



### Proactive in introducing and implementing effective risk controls

Workers should be provided with proper grievance channels to raise their concerns about their working and living conditions, especially on recruitment fee related issues. If employers can eradicate issues of forced labor, the organization would be able to be more ethical in their recruitment practices hence issues in the supply chains can be remediated.



### Repayment of recruitment fees paid by the workers

As forced labor is a highly discussed area, organizations should work on improving/ eradicating issues such as debt bondage and modern slavery. Hence repaying the workers a suggested amount of the fees back to them would be a start to sever the cycle. In addition, the 'Zero Recruitment Fee' policy and its adaptation in most organizations would mean that there could be reputational damage and possible legal implications with international conventions and regulations whereby the onus is placed on the employers to bear the cost of recruitment fees.

# Conclusion

Organizations must take better precautions and be more proactive rather than reactive in improving workers' wellbeing to align with international standards and local regulations. Whilst it is important to look into the effects of debt bondage from a worker's point of view, organizations should also view it from the aspect of their supply chain.

The European Union (EU) introduced a proposal called the Corporate Sustainability Due Diligence Directive (CSDDD) to ensure that companies implement preventive measures to respect human rights and mitigate environmental impacts within their operations and supply chains. This can also help to provide control mechanisms for supply chains to make better informed choices in the future.

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