

GUIDELINES FOR CHECKING RECRUITMENT AGENCIES

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Whilst outsourcing recruitment has many advantages, it can increase the risk of victims of human trafficking infiltrating a hotel's labour supply chain. Willingly or unwittingly, an agency could fail to perform the right checks on workers background or could itself impose conditions on a worker which are tantamount to debt bondage and forced labour.

The following guidance has been developed with the support of **Verité**, the **Recruitment and Employment Confederation** and the **Institute for Human Rights and Business** to help hotels perform the right due diligence to reduce the risk of trafficking in the labour supply chain and ensure better working conditions for agency staff. A full list of references is in the Appendix.

Background checks:

- Check what regulations apply in the country you operate in terms of regulating agencies, employing agency staff, as well as laws relating the rights of agency workers e.g. working time, health and safety, minimum wage. *Note that where there is no regulation of working hours by national law, working hours should not exceed eight per day and forty-eight per week, and total working hours including overtime should not exceed 60 hours in a week.*
- If the law does not require agencies to be licensed, is the agency a member of a national professional association or body, e.g. the Recruitment and Employment Confederation in the UK?
- Does the agency hold any additional affiliations, e.g. Investors in People, ISO standards? Whilst holding such does not constitute proof that an agency has no risk of trafficked labour, they may be considered indicative of good management practice.
- Check that the contract between you and the agency contains all provisions detailed in **Appendix 2 - Terms of Business between an agency and a client for the Supply of Temporary Staff Services**

Questions to ask agencies:

- Does the agency have a code of conduct? Does this specify a clear prohibition of the use of forced / trafficked labour?
- What checks does the agency perform to establish a worker's identity and eligibility to work? *Note that it is a legal requirement in many countries to check that a person has the right to reside and work in that country.*
- Is the agency able to show you an example contract for agency staff? *Check that this complies with the guidance detailed in the terms and conditions below (see Appendix 2)*
- Can the agency provide you with references from other clients? Note you may wish to follow up directly with these clients rather than take their word.
- Are workers directly recruited from overseas?
- Does the agency use middle men to source staff e.g. migrant workers? If Y, how many sub-agents are there? What checks does the agency do to ensure the sub-agent/s is working legitimately and adhering to standards?

- Who are workers under contract to – the agency or another labour broker, or both?
- Have any fees or deposits been paid by the workers, to either the agency or any middle men? What for, how much and are any of these refundable? Is there written documentation to substantiate this?
- Have any documents been retained, e.g. passport, bank book/card? What arrangements are there for returning or allowing staff access to these? Is there written documentation to substantiate this? *Whilst not illegal in all countries, it is not considered good practice to take payment or retain documents and checks should clearly indicate that there are transparent procedures to deal with this.*
- How does the agency deal with any language barriers and ensure staff understand the terms of their contract?

For further guidance on interviewing workers, **see *Verité Fair Hiring Toolkit for Brands Tool 3: Conducting Interviews with Managers.***

If the agency does not have any policies or procedures related to human trafficking, talk to them about this and how you might work together to address the issue. Could you arrange for them to talk to a respected NGO and get training on the issue? Are there targets they could agree to? Remember, it is better to try to work with the agency to improve their practice rather than to drop them out of hand.

Additional information to consider:

- Do the working conditions and standards outlined match with those accorded to your directly employed staff?
- Is the cost for the services provided credible?
- If money is offered to secure a contract, alarm bells!

Checks to perform periodically:

- Check the payroll of agencies you use to see it matches agreed rates
- Talk to agency staff. Have they been given a written contract that they understand and have agreed to? Are they happy with the relationship with the agency? Is there any indication that fees may have been paid, for the employment or other 'services' such as uniforms or meals? Are they forced to work overtime? Is there anything to give you cause for concern that they might be being controlled by someone else? For further guidance on interviewing workers, see ***Verité Fair Hiring Toolkit for Brands Tool 4: Conducting Interviews with Migrant Workers.***

Document check:

For more detail on document checks to support the above guidelines, including how to audit wages, see ***Verité Fair Hiring Toolkit for Brands Tool 5: Conducting a Review of Documentation***

Contracting

Draw up an agreement with any agencies you use. The template 'good recruitment charter' in the Appendix is top line overview of what both employers and agencies should be agreeing to when they do business to ensure compliance.

APPENDIX 1

'GOOD RECRUITMENT CHARTER'

This template 'good recruitment charter' from the Recruitment and Employment Confederation is a top line overview of what both employers and agencies should be agreeing to when they do business to ensure compliance with best practice.

Enhancing inclusion, opportunities and business performance through better recruitment

This is a joint initiative between XXXXXXXXXXXXXXXXXXXX and the Recruitment & Employment Confederation (REC) – the representative body for the UK recruitment industry. The aim is to enshrine best practice in the recruitment of both permanent and temporary staff within the xxxxxx sector.

_____ will ensure that
(name of employer/representative body)

1. Recruitment procedures are fair and ethical, with specific regard to actively promoting diversity and inclusion within the workplace;
2. The focus on recruitment best practice is applied equally to temporary, contract, fixed-term and part-time workers;
3. Flexible working arrangements are offered wherever possible as a way of boosting inclusion and sourcing diverse pools of talent;
4. Those managing and delivering the recruitment process – whether internal staff or external providers – have undertaken relevant training and qualifications and are committed to continuous development;
5. External recruitment providers are signed up to industry Codes of Practice and have a demonstrable commitment to best practice;
6. Best practice is driven through the supply chain – in particular where different resourcing models such as RPOs or Vendor arrangements are in place;
7. That recruitment procedures help to address the challenge of youth unemployment – for example through the provision of apprenticeships and traineeships and by working with external organisations who have signed up to the REC's Youth Employment Charter;
8. That recruitment procedures are regularly reviewed to determine the value of effective recruitment procedures in terms of retention and organisational performance;
9. Latest trends, regulations and research on recruitment issues are monitored and applied as part of a process of continuous improvement.

APPENDIX 2

DETAILED GUIDELINES FOR ESTABLISHING TERMS AND CONDITIONS WITH RECRUITMENT AGENCIES

Adapted from the Recruitment and Employment Confederation New Member Standards

Terms of Business between an agency and a client for the Supply of Temporary Staff Services

Terms should be agreed between the Client– i.e. the hotel or hotel company - and the Agency. These terms must be recorded in a single document, or contract, and a copy must be sent to the Client as soon as possible. These terms must:

- State that the Agency is acting as an Employment Business.
- Provide details of any fees, including the amount or method of calculation.
- Provide details of any refund or rebate that they offer including the circumstances in which these may be payable. If they do not provide any refund or rebate, a statement to this effect must be included.
- Provide details of the procedure to be followed if a temporary worker proves unsatisfactory.
- Specify in what circumstances transfer fees apply.
 - Agencies must not indicate that they would charge a transfer fee if the worker's employment with the client, or supply through another employment business, starts either more than 8 weeks from the end of initial supply, or 14 weeks from the start.
 - Specify that the Agency will provide you with an option to extend the period of temporary supply as an alternative to paying a transfer fee.

These Terms must **not state**:

- That the Agency will change any of the terms without prior notice or agreement. (Where changes to the terms are agreed between the Client and the Agency, these must be confirmed in writing as soon as possible, stating the date on which such changes will come into effect)

Contract between the Agency and the Temporary Worker (Terms of Engagement/Contract for Services)

Terms should be agreed between the Agency and the Temporary Worker prior to the Agency providing any work-seeking services. These terms should be recorded in a single document, wherever possible, and a copy must be given to the Temporary Worker as soon as possible. These Terms must:

- Specify the type of contract e.g., contract for services or contract of service (employment) that the Temporary Worker will be engaged under.
- Include a statement confirming that the worker will be paid for hours worked regardless of whether or not the Agency is paid by the Client.
- Specify the length of notice that the Temporary Worker is required to give and is entitled to receive in order to terminate particular assignments.
- Specify either the actual rate of pay or the minimum rate of pay the Agency reasonably expects to achieve for the Temporary Worker.
- Specify the intervals in which payment will be made.
- Include details of annual leave entitlement and holiday pay.
- State that the Agency will act as an Employment Business.
- State the type of work that the Temporary Worker will be supplied to do.

These Terms must **not state**:

- That payment to the Temporary Worker will be withheld on any of the following grounds:
- That the Client has not yet paid or is withholding payment
- That a timesheet has not been submitted, unless the Agency has made enquiries with the Client and they have not verified that the work in question was carried out.
- As a penalty for any reason i.e., for lateness, absence, failing to complete an assignment etc. (Workers must be paid for all hours actually worked)
- That the Agency will be charging Temporary Workers a fee for providing work-seeking services.
- That the provision of work-seeking services is conditional upon the Temporary Worker either:
 - Using other services for which the Agency charges a fee; or
 - Hiring or purchasing goods, whether provided by the Agency or any person.
- That a Temporary Worker may be threatened or subjected to any detriment on the following grounds:
 - That they have terminated or given notice on their contract with the Agency; or
 - That they have taken up or propose to take up employment elsewhere
- That the Temporary Worker is required to inform the Agency of the identity of any future employer.
- That the Agency will change any of the terms without prior notice or agreement with the Temporary Worker.
 - Where changes to the terms are agreed between the Agency and Temporary Worker, these must be confirmed in writing, within 5 working days, stating the date on which such changes will come into effect

Complaints Procedure

A reputable agency should have a complaints procedure that enables clients and work-seekers to make a complaint to the agency. Ideally, this should include:-

- Information on whom to contact with a complaint. This should be the MD of the Agency or another named individual with clear responsibility for handling complaints
- What the process involves along with timescales within which a complainant can expect a response
- The process for appealing a decision whether this is by appealing to a more senior manager and/or referring a complainant to an external arbitrator / body e.g. the REC in the UK.
- An alternative process for dealing with the complaint in writing in cases where a complainant does not wish to have a meeting with the Agency.

Equal Opportunities and Diversity Policy

A reputable Agency should have an Equal Opportunities/Diversity Policy in place that meets all legal obligations under anti-discrimination legislation and promotes diversity in both employment practices and in the operation of its recruitment business.

This should cover: sex, sexual orientation, gender reassignment, marital or civil partnership status, age, disability, colour, race, nationality, ethnic or national origin, religion or belief, political beliefs or membership or non-membership of a trade union, or spent convictions.

APPENDIX 3

REFERENCES AND FURTHER READING

UK

Legislation:

<http://www.legislation.gov.uk/>

- The Employment Agencies Act 1973
- The Conduct of Employment Agencies and Employment Businesses Regulations 2003
- The Agency Workers Regulations 2010

The Employment Agency Standards Inspectorate is the UK government agency charged with upholding standards and investigating complaints.

UK Government guidelines on using agencies to find staff. The following guidance makes clear the responsibilities of the Agency and those of the company hiring staff via an agency. It also provides a link to guidance on the Agency Workers Regulations 2010 <https://www.gov.uk/using-a-recruitment-agency-to-find-staff>

Recruitment and Employment Confederation <http://www.rec.uk.com/home> – the professional body for the recruitment industry in the UK with 3,776 corporate members. Has a hospitality sector group and listings of member agencies. Members sign a Code of Practice.

Investors in People – UK ‘people management’ standard whereby companies demonstrating best practice in hiring and human resource management may apply for the Investors in People certification <http://www.investorsinpeople.co.uk>

INTERNATIONAL

Verité

<http://www.Verité.org/helpwanted/toolkit>

Presents a framework of action for what brands can do to reduce the risk of forced labour in the supply chain.

International Labor Organization (ILO)

<http://www.ilo.org/>

Founded in 1919 and part of the United Nations, the ILO works to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.

www.ilo.org/sapfl/Informationresources/ILOPublications/WCMS_101171/lang--en/index.htm

International Confederation of Private Employment Agencies (Ciett)

<http://www.ciett.org>

Works to promote the interests of the temporary agency work sector through promoting standards within the staffing industry. Ciett consists of 44 national federations of private employment agencies and seven of the largest staffing companies worldwide. Code of Practice does not refer to trafficking but useful guidance nonetheless. See also Eurociett (European Confederation of Private Employment Agencies): www.eurociett.eu