

Responsible Recruitment of Migrant Worker

Guideline

Document type:	Guideline
Applies to:	H&M Group's Business Partners
Effective from:	Aug 31, 2023
Last reviewed/updated:	Aug 31, 2023
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Approved date:	Aug 31, 2023
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Version:	Version 2
Supersedes:	Migrant Workers Fair Recruitment and Treatment Guidelines (2019)

Introduction

Because of the growing pace of economic globalization and other international phenomena, movement of people has increased all around the world and we have more migrant workers than ever before. While migration can bring new opportunities to those involved, people and countries, it can also be the source of new challenges and vulnerabilities.

Sustainability Commitment – how it connects

Considering the conditions described above, H&M Group has developed this implementation guideline to the Sustainability Commitment to clarify requirements and expectations on our Business Partners with regards to protecting the human rights, safety, dignity, and fundamental freedoms of all international or internal migrant workers, regardless of their migratory status.

Migrant workers are more vulnerable to labor rights violation overall, and these guidelines aim to clarify the following requirements in H&M Group's Sustainability Commitment:

— Forced, bonded, prison and illegal labor are not accepted

- Written policies and routines shall be in place to prevent any form of forced, bonded, prison or illegal labor, *with special consideration for the increased risk of vulnerable categories such as migrant workers.*
- *Workers shall not be required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice.*
- *The employer is responsible for payment of all employment eligibility fees and costs of all workers, including recruitment and termination fees.*

— Employment is recognized and employment terms are understood and mutually agreed

- All work performed must be based on a legally established and recognized contractual relationship, the nature of which shall not deprive workers of the rights arising from labor or social security laws.
- All workers (including the self-employed) are entitled to a written contract or equivalent, in a language they understand, that specifies the mutually agreed terms and conditions.
- When workforce is secured via labor agencies or where recruitment companies are being used, the employer is responsible for ensuring that these companies meet the requirements of this Sustainability Commitment.

— **Freedom of association and the right to collective bargaining are recognized and respected**

- All workers, *without exception or distinction*, must be free to join or form a trade union of their choosing and to bargain collectively.

— **Workers are not discriminated**

- There shall be no discrimination in hiring, compensation, access to training, promotion, termination, or retirement on the grounds of gender or sexual orientation, race, color, age, pregnancy, marital status, trade union affiliation, *religion*, political opinion, *nationality*, *ethnic origin*, *caste*, disease, or disability.

Target

To mitigate the risk of forced and bonded labor, and to meet the requirement regarding recruitment fees, while recognizing that conditions might vary from market to market and across our various supply chains, we have set a target of:

- **No worker pays for their work or right to work by 2025**, meaning that all costs in relation to recruitment should be paid by the employers by 2025. A special focus given to migrant workers.

Even if there is a need for additional caution when hiring migrant workers, H&M Group encourage business partners to actively work for diversity and an inclusive workplace and engage with local community and/or NGO's to understand how minorities and/or disadvantaged groups such as migrant workers or refugees can be considered for employment and how barriers for responsible recruitment can be countered proactively.

Definitions

- **International migrant worker:** A person who is engaged in remunerated activity in a country of which he/she is not a citizen, and whose employment could be temporary, provisional, or unauthorized.
- **Internal migrant worker:** A person moving within his/her own country to pursue employment.

References

These guidelines are informed by ILO Core Conventions and below universal standards and principles:

- [ILO C096](#) - Fee-Charging Employment Agencies Convention
- [ILO C097](#) - Migration for Employment Convention
- [ILO C143](#) - Migrant Workers
- [ILO C181](#) - Private Employment Agencies Convention
- [ILO R115](#) - Workers' Housing Recommendation
- [ILO General Principles and Operational Guidelines on Fair Recruitment and the Definition of Recruitment Fees and Related Costs](#)
- [IOM IRIS Standard](#)
- [The Dhaka Principles](#) for migration with dignity
 - [The Employers Pays Principle](#)

Guideline

These guidelines set our expectations on business partners to protect migrant workers' rights, to be compliant with requirements set out in the Sustainability Commitment and to jointly work towards the target around recruitment fees. The guideline is divided into two sections: recruitment and treatment.

Recruitment

The recruitment process must be:

- Guided by a Migrant Workers' Recruitment policy;
- Paid for by the employer;
- Transparent and correct about contract conditions.

1. Recruitment method

Employers may recruit migrant workers either directly or through public or private labor recruitment agencies. When recruiting international migrant workers, a labor recruiter (broker/agency) might be involved in both the sending country and the receiving country.

If the employer recruit migrants, it must:

- Have a Migrant Workers' recruitment policy applicable to migrants, which clearly states its commitments and meets at minimum the content as outlined in Appendix 1;
- Be able to prove that it has carried out a due diligence of the labor agencies, recruiters or labor brokers that meets the expectation outlined in Appendix 2.

2. Recruitment fees and costs

- All costs in relation to recruitment should be paid by the employers, except for administrative costs.
 - Definition of cost to be considered part of recruitment fees is outlined in Appendix 3.

3. Working contracts

- All migrant workers must have received, before leaving their country/region of origin and anyway before employment, a written contract in a language that they understand or, if they are illiterate, they must have received an explanation of the conditions of work and salary or have had the contract read to them.
- The original of the contract must be given to the worker.
- The employer must have copies of the original contracts signed by the workers.
- Substitution of contracts at any stage of recruitment and employment is prohibited.
- No worker contract can include a clause that financially punishes the migrant for terminating a contract before the end date.
- All migrant workers should have a proper visa and/or work permit, as required by law.

Treatment

There must be no difference in treating migrant workers and other workers, with specific reference to:

- Freedom of movement;
- Working conditions;
- Freedom of association;
- Training and access to information.

1. Freedom of movement.

Workers retain control of their identity documents and/or other valuable personal items and have full freedom of movement. The following practices related to freedom of movement are prohibited:

- Confiscation of identification documents (for instance passports and birth certificates) and valuable possessions.

- If safekeeping is provided, it must be voluntary, initiated by the worker and it must be possible for the workers to access the valuables within 24 hours.
- Withholding of deposits, wages, or other compulsory saving schemes.
- If dormitories are provided, the use of dormitories must not be compulsory for migrants, and access should not be restricted at any time. The employer must have a dormitory policy, which clearly states its commitments and meets at minimum the content as outlined in Appendix 4.

2. Working conditions

Migrant workers must not be discriminated or treated differently, including but not exclusively regarding:

- Wages and compensation.
- Hours of work.
- Overtime and shift arrangements.
- Leave entitlements.
- Minimum age.
- Work of young people.
- Discipline measures.
- Notice for leaving and circumstances in which workers can terminate their employment without penalty, given reasonable notice.
- Social security (including employment injury, maternity, sickness, invalidity, portability of pensions, death, unemployment, and family responsibilities according to national laws or regulations which might set specific limitation).

3. Freedom of association.

The employer must take a proactive approach to facilitate migrant workers' rights to freedom of association and specifically at least: -

- Access to Trade Unions representatives.
- Access to Collective Bargaining.
- Possibility to raise complaints or issues to the Workers' Committee.
- Possibility to access grievance mechanisms.

4. Training and access to information.

- Awareness raising and access to information regarding the above requirements, as well as other labour policies guidelines and rules (e.g., health and safety) must be communicated and guaranteed, by using a language that can be understood by the migrants.
- Relevant training and onboarding for the worker to perform their job in line with health and safety regulations must also be provided.

Speak up!

If you would like to raise a concern or are aware of a suspected breach of H&M Group policies, you should report it immediately to the H&M Group [Speak Up!](https://speakup.hmgroupp.com/) channel which is also available at <https://speakup.hmgroupp.com/>.

Appendix

1 – Migrant Worker Recruitment Policy template

An acceptable Worker Recruitment Policy, must be applicable to migrant workers and:

- Prohibit forced labor and human trafficking, and all forms of exploitation, deception, and coercion in the recruitment, hiring and treatment of migrant workers.
- Clearly indicate that no fees are charged to workers for job placement services, with an exception only for administrative costs, as listed in Appendix 3.
- Prohibit the confiscation or withholding of worker passports or other valuable documents if it is not strictly necessary for the immigration procedures.
- Prohibit the collection of deposits, security payments or bonds at the time of recruitment or employment.
- Prohibit contract substitution or the amendment of original contract provisions with those that are less favorable to the worker.
- Ensure that no unreasonable restrictions are levied to limit migrant workers' freedom of movement and personal freedom in the recruitment and employment process.
- Commit to inform the migrant workers, in a language that they understand, about:
 - their rights and responsibilities on the job as well as those of their employer
 - contractual and other legal obligations
 - terms and conditions of employment
 - living conditions
- Provide a fully transparent system for wage payment, including when labor recruiters (broker/agencies) oversee it.

2 – Due Diligence of Labour Agencies (agencies, brokers etc.)

It is recommended to use a certified labor agency according to the [IRIS Standard](#) when available.

In all cases, the employer, before entering a contract with a labor agency, must control and keep evidence of the following:

- The agency can be either a public entity or a private entity.
- The agency has a policy in place that shows the commitment to work with ethical standards, address grievances and be compliant with the origin and destination country laws.
- If it is a private entity, it must be legally established, licensed or certified by the government.
- Agencies should deliver orientation and training to workers - prior to departure and upon arrival - on:
 - their rights and responsibilities on the job as well as those of their employer
 - terms and conditions of employment
 - living conditions

As a result of the due diligence, the minimum contents of the contract between the employer and the labor agency are:

- Prohibition of forced labor and human trafficking and of all forms of exploitation, deception, and coercion in the recruitment, hiring and management of migrant workers.
- Services provided by the labor agency.
- Detailed list of fees and costs covered by the employer and labor agency.
- Recruitment fees are not paid by workers.
- Sanctions for labor agency non-compliance with contract terms relating to labor and human rights
- Agency licensing and accreditation information.
- Licensing, accreditation or registration information for any subcontractor or sub-agent used by the labor agency.

The employer maintains:

- Copy of the signed contract between the labor recruiter and employer.
- Copy of the labor agency license(s)/ certification (s) to operate in the country where workers are recruited and where they are placed with the employer.
- Copy of each sub-contractor's or sub-agent's license or registration to operate in each jurisdiction from which they recruit workers.
- Copies of the contracts signed between the labor recruiter and its sub-contractors and sub-agent.

Even in the case of using an agency, the employer remains responsible for the recruitment process and must ensure that the recruitment process is at least compliant with the national laws or international standards, whatever is higher.

3 – Definition of recruitment fees

As set out by *ILO General Principles and Operational Guidelines on Fair Recruitment and the Definition of Recruitment Fees and Related Costs*.

Recruitment fees are:

- (i) Payments for recruitment services offered by labor agencies, whether public or private, in matching offers of and applications for employment;
- (ii) Payments made in the case of recruitment of workers with a view to employing them to perform work for a third party;
- (iii) Payments made in the case of direct recruitment by the employer; or
- (iv) Payments required to recover recruitment fees from workers.

In the recruitment fees are also included related costs:

- **Medical Costs:** payments for medical examinations, tests, or vaccinations.
- **Insurance Costs:** costs to insure the lives, health, and safety of workers, including enrollment in migrant welfare funds.
- **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.
- **Costs for training and orientation:** expenses for required training, including on-site job orientation and pre-departure or post-arrival orientation of newly recruited workers.
- **Equipment Costs:** costs for tools, uniforms, safety gear and other equipment needed to perform assigned work safely and effectively-
- **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-
- **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.

4 – Dormitory Policy template

Employers are encouraged to support workers to obtain housing through autonomous private agencies, public housing schemes, or cooperatives.

When hostel/ dormitory /accommodation are provided as part of the employment contract, the space offered:

- Should be adequate for accommodation and provide a suitable, clean, and safe living environment for workers.
- Freedom of movement and association should always be recognized.
- If a cost is charged, it should be a reasonable proportion of the workers' income.
- Hostels and dormitories must be registered with the appropriate government body, as required by law.
- Minimum health, safety and well-being standards are as follow:
 - Structural safety, fire prevention and emergency preparedness, according to at least the same standards of the workplace.
 - Separate facilities provided by gender.
 - Adequate living room, as a minimum 20-35 sq ft per worker, or the amount required by local law, whichever is more stringent.
 - Comfortable mattresses with pillow, bed cover and blanket provided to each worker.
 - Adequate lighting during day and night.
 - Adequate supply of safe drinkable water.
 - Adequate sanitary facilities, as a minimum one toilet, one wash basin and one tub or shower per 6 workers.
 - Adequate furniture for each worker to secure his/her belongings, such as a ventilated clothes locker.
 - Cooking area, common dining rooms, canteens separated from the sleeping areas
 - laundry facilities.
 - Access to telephone or other communication systems at a reasonable price.

Premises should be managed and supervised by a supervisor/warden and inspected frequently to ensure decency, cleanliness, and sufficient maintenance. The results of inspections should be registered and made available for review.

A committee composed of workers, a representative of the management, supervisor/warden (and representatives from external organization/NGO, if possible) is to meet regularly to address concerns and improvement plans. The meeting minutes should be recorded and made available for review.

When a worker's contract of employment is terminated, the worker should be entitled to a reasonable period to vacate the premises, in accordance with the law.