

B. Responsibilities of enterprises and public employment services

This section does not apply to governmental agencies when acting in a regulatory capacity.

Enterprises and public employment services bear special responsibility for preventing abusive or unfair recruitment.

15. **Enterprises and public employment services should respect human rights when recruiting workers, including through human rights due diligence assessments of recruitment procedures, and should address adverse human rights impacts with which they are involved.**
 - 15.1. All enterprises and public employment services should respect human rights in their recruitment processes wherever they operate, independently of the abilities and/or willingness of States to fulfil their human rights obligations.
 - 15.2. They should undertake due diligence regarding their recruitment activities.
 - 15.3. When they are not practising direct recruitment, enterprises should engage workers only through compliant labour recruiters, including public employment services and private recruitment agencies. Where it is not feasible to verify directly the conduct of all the parties involved in recruitment, there should, at a minimum, be a contractual obligation requiring labour recruiters to work with third parties operating in accordance with legal requirements, and these principles and guidelines. The enterprise should have in place a procedure for evaluating other parties involved in the recruitment process.
 - 15.4. Enterprises and public employment services should respect internationally recognized human rights, including those expressed in international labour standards, in particular the right to freedom of association and collective bargaining, and prevention and elimination of forced labour, child labour and discrimination in respect of employment and occupation, in the recruitment process.
 - 15.5. Enterprises and public employment services should not retaliate against or blacklist workers, in particular those who report recruitment abuses or fraudulent recruitment practices anywhere along their supply chain, and should provide special protections for whistle-blowers pending the investigation or resolution of a grievance or dispute.
16. **Enterprises and public employment services should undertake recruitment to meet established labour market needs and never as a means to displace or diminish an existing workforce, lower wages or working conditions, or otherwise undermine decent work.**
17. **No recruitment fees or related costs should be charged to, or otherwise borne by, recruited workers and jobseekers.**
 - 17.1. Workers and jobseekers should not be charged any fees or related recruitment costs by an enterprise, its business partners or public employment services for recruitment or placement, nor should workers have to pay for additional costs related to recruitment.
 - 17.2. Enterprises and public employment services should communicate this policy externally via guidelines and other means including contracts to all prospective and current business partners and relevant stakeholders. Enterprises should determine whether private employment agencies and other labour recruiters charge recruitment fees to workers or impose other related costs on them, and should not engage workers through agencies and other labour recruiters known to charge recruitment fees or related costs to workers.
18. **Enterprises and public employment services should not retain passports, contracts or other identity documents of workers.**
 - 18.1. Enterprises and public employment services should not interfere with workers' free and complete access to their own passports, identity documents and residency papers, including their employment contracts, paying careful attention to the situation of migrant workers.
19. **Enterprises and public employment services should respect workers' confidentiality and ensure protection of data pertaining to them.**
 - 19.1. Enterprises should not record, in files or registers, personal data which is not required to judge the aptitude of workers, including migrant workers, for jobs for which they are being or could be considered, or which is not required to facilitate their deployment. This data should not be communicated to any third party without the prior written approval of the worker.

20. **Enterprises may work to develop schemes that drive professional recruitment standards.**

- 20.1. These schemes should be subject to regular monitoring and evaluation. Industry-led initiatives should complement and be consistent with government enforcement activities and regulations covering the recruitment process.

2. *Employers*

There are different kinds of employers involved in recruitment and each should be responsible according to the circumstances.

26. **Employers should ensure that written contracts of employment are concluded, and that they are transparent and are understood by the worker.**

- 26.1. The terms and conditions of a worker's employment should be specified in an appropriate, verifiable, and easily understandable manner, and preferably through written contracts in accordance with national laws, regulations, employment contracts and applicable collective agreements. They should be clear and transparent and should inform the workers of the location, requirements and tasks of the job for which they are being recruited. In the case of migrant workers, written contracts should be in a language which the worker can understand, and should be provided sufficiently in advance of departure from the country of origin, should be subject to measures to prevent contract substitution, and should be enforceable.

- 26.2. Worker's informed consent to the terms of the contract should be obtained without deception or coercion.

27. **Employers should provide or facilitate effective access to grievance and other dispute resolution mechanisms in cases of alleged abuses in the recruitment process, and to appropriate remedies.**

- 27.1. Access to grievance and other dispute resolution mechanisms for workers should be available to those who may have suffered abusive treatment in the recruitment process, and in cases where abuse is found to have occurred, employers should provide or facilitate effective access to appropriate remedies. They should not interfere with or restrict workers' efforts to attain appropriate remedies either judicial or non-judicial.

28. **Employers should provide all workers, whatever their employment status, with the protection provided for in labour law and international labour standards as concerns recruitment.**

- 28.1. Workers may be recruited and employed under different kinds of relationships with the employer, but employers should ensure that these principles and guidelines apply to all workers recruited in all situations.

29. **Employers should ensure that the right to freedom of association and collective bargaining of recruited workers is respected in the recruitment process.**

- 29.1. Employers should ensure that their recruitment processes do not require jobseekers and/or workers, in particular migrant workers, to renounce their rights to join and form workers' organizations and to bargain collectively.

30. **Employers should not resort to labour recruiters or to temporary work agencies to replace workers who are on strike.**

- 30.1. Recourse to the use of labour drawn from outside the undertaking to replace workers on strike entails a risk of derogation from the right to strike, which constitutes a serious violation of freedom of association.

31. **Employers should respect the freedom of migrant workers to leave or change employment or to return to their countries of origin.**

- 31.1. Employers' permission should not be required for migrant workers to terminate or change employment, or to leave the country if the worker so desires, taking into account any contractual obligations that may apply.