

Key Markers for Promoting Responsible Recruitment of Migrant Workers

Guidance for companies

Developed in collaboration with the Fair Labor Association (FLA)

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Introduction

- Recruitment can be decisive in determining workers' employment experiences
 - Decent work depends on responsible recruitment
 - Forced labour stems from irresponsible recruitment
- Risks of irresponsible recruitment
 - Placements fees and related costs, debt bondage
 - Deception, contract substitution
 - Threats and intimidation, inhumane treatment
 - Limited freedom of movement, document confiscation
- Developing international standards
- Significant challenges in promoting responsible recruitment
- Need recommendations to identify irresponsible practices
- Responsible recruitment = responsible business conduct = human rights due diligence

What is responsible recruitment?

- *Responsible*, ethical and fair recruitment
- Broader than workers paying exorbitant costs or the Employer Pays Principle (EPP)
- Comprehensive programmes linked to international standards
 - [Stronger Together's Responsible Recruitment Toolkit \(RRT\)](#) and [Clearview standard](#)
 - The [International Labour Organisation \(ILO\)'s Fair Recruitment Initiative](#)
 - The International Organisation for Migration (IOM)'s [International Recruitment Integrity System \(IRIS\)](#)
 - The Fair Hiring Initiative (FHI)'s [On The Level certification](#) scheme
 - The [Responsible Business Alliance's \(RBA\) Responsible Recruitment Programme](#) and [Responsible Labour Initiative](#), linked to the [RBA](#) standard
- Recent SEDEX Collective Action Requirement (CAR) re: Employer Pays Principle
- Some brands, buyers and social compliance frameworks require responsible recruitment and/or the EPP including FLA, AAFA, RBA
 - *Often subset of forced labour or voluntary employment standards

Why a lack of progress?

- More focus, funding, guidelines and commitments BUT limited real-world progress
- Certification slow as gap between theoretical requirements and reality on the ground
- “Responsible” actors see limited benefit
- **Misunderstanding on cause of irresponsible recruitment**
 - Workers pay because of/to source country actors?
 - **‘Kickbacks’ to destination country actors/employers**

Misunderstanding regarding root cause of problem prevents effective, sustainable solutions

“Kickbacks”

- Limited demand for responsible recruitment
- Source country actors must pay kickbacks
- Source country actors not provided full costs
- Workers pay for recruitment as costs passed to them
- Few actors consider benefits of responsible recruitment
- Responsible actors find it difficult to secure business

1

JOB SEARCH

Job shared through brokers, subagents, community leaders, referrals, vocational school, colleagues, local government offices, OR source country registered recruitment agency advertisement (riskiest).



2

CANDIDATE MAY PAY INITIAL FEES

Generally without receipts, in cash to 3rd party recruitment intermediaries. Fees may include intermediary services, inflated transport, and food and/or accommodation costs. Documents may be held as collateral.



3

SKILLS TRAINING

Sometimes offered and typically unregulated.



4

DOCUMENT PROCESSING

ID documents and/or passport application processes are undertaken.



9

FINAL SOURCE COUNTRY GOVERNMENT APPROVAL



PRE-DEPARTURE TRAINING

Often limited training, leaving candidates unprepared and uninformed.



8

PAPERWORK FOR SELECTED CANDIDATES

Undergo processing which may include medical checks, security checks, visa processing.



7

INTERVIEW & SELECTION PROCESS

Usually in capital city at registered agency, sometimes by employer, destination country agent, online, and/or by source country agent.



6

PRE-SELECTION PROCESS

This may include skill testing, other metrics.



5

10

CLEARANCE OF ALL FEES / COSTS

with all intermediaries / recruiters prior to departure



11

DEPARTURE

May experience bribery costs to related airport agencies.



12

ARRIVAL IN DESTINATION COUNTRY

May experience bribery costs to related airport agencies.



13

POST-ARRIVAL

Medical checks, work permits, and related formalities. End of recruitment journey, beginning of employment.



RISKS LEGEND



CORRUPTION: Usually due to opaque / complicated government processes



ERRORS: Mistakes that create a potential cost or other risk to worker



FEES: Passing the cost of staff recruitment to the worker



DOCUMENT RETENTION: Worker does not have control over their passport/travel documents



CONFUSION: Result of opaque process or insufficient information sharing

EMPLOYER JOURNEY



1

DECISION TO HIRE WORKERS

Employers may bring in new migrant workers or hire workers already in-country.

2

GOVERNMENT APPROVAL PROCESS (DESTINATION COUNTRY)

Employers may use intermediaries to avoid delays or the risk of corruption.



3

PAY GOVERNMENT FEES

Employers may use intermediaries to avoid delays or the risk of corruption.



5

SOURCE COUNTRY GOVERNMENT APPROVALS

The migrant worker recruitment demand letter is attested by authorities in the destination country, the source country embassy in destination country and/or authorities in source country.



4

HIRE RECRUITMENT INTERMEDIARY

This may be in the source country and/or destination country. The employer will issue a "migrant worker recruitment demand letter."



6

RECRUITMENT BY SOURCE COUNTRY RECRUITMENT ACTORS

Final step in the recruitment journey.

DESTINATION COUNTRY RECRUITMENT ACTORS MAY BE UTILIZED BY END-USER EMPLOYER

Employers often outsource recruitment. This increases governance and exploitation risks both for the employer and for workers.



RISKS LEGEND



CORRUPTION Due to opaque or complicated government processes.

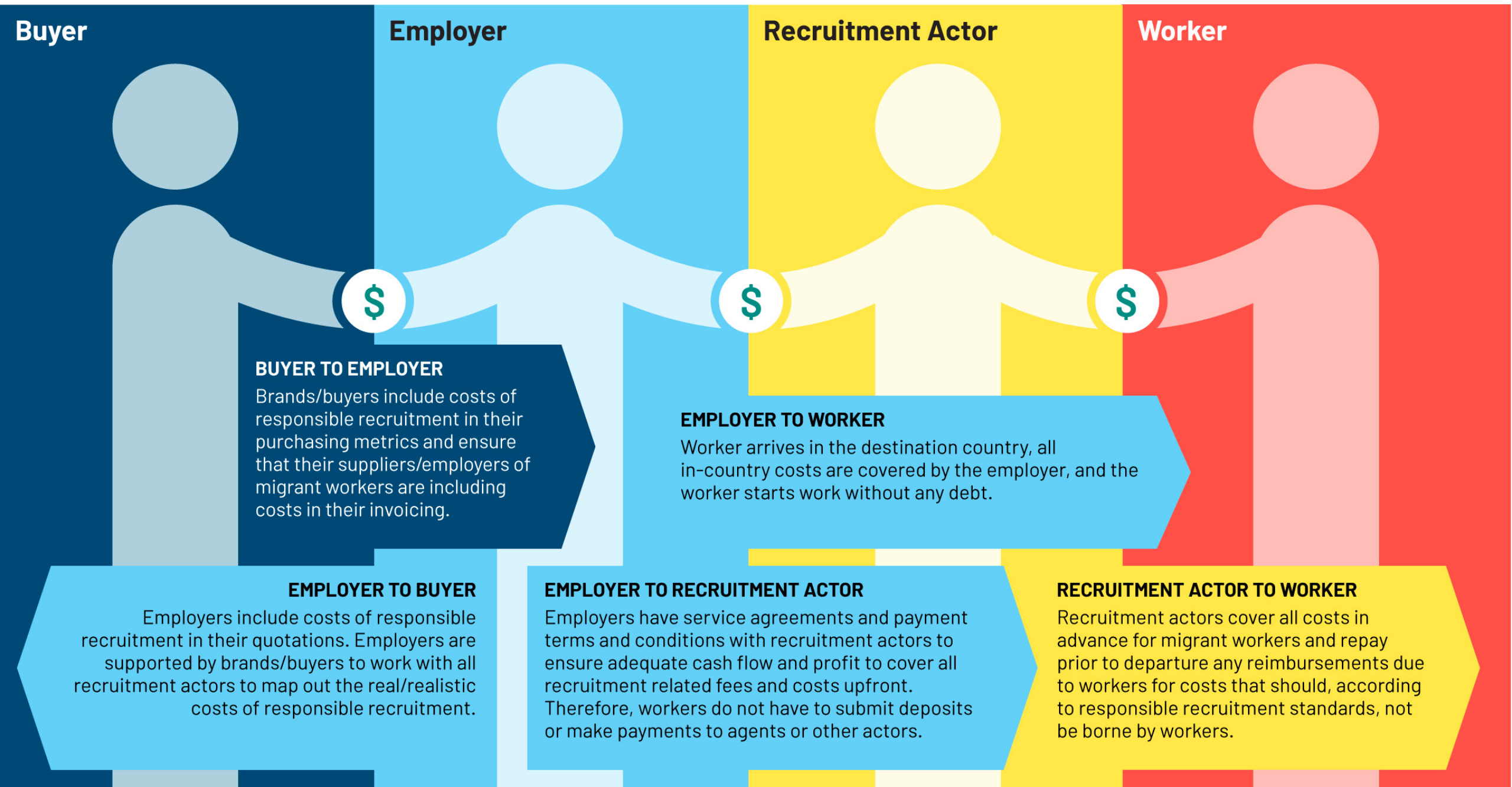


KICKBACKS Open tenders help prevent kickbacks from agencies to employers.



CONFUSION Results when costs and responsibilities are not transparent and agreed upon in advance.

Money Relationships in a Responsible Recruitment Ecosystem



How to monitor recruitment?

- Identifying challenges in recruitment difficult currently
- Monitoring often happens only once a worker arrives at workplace
- Specific techniques required for monitoring
- Specific issues to look out for and request during audits

Responsible recruitment and leverage

- Brands, buyers (and investors) have important role
- Key to incentivising responsible recruitment
- Targeted, informed engagement with supply chains pivotal in contributing to fair, transparent business environment for a responsible recruitment market to emerge
- Contribute to responsible recruitment market demand
- Ensure and monitor for (demand) responsible recruitment
- Then suppliers/end-user employers demand and ensure, through suitable labour sourcing practices, responsible recruitment

Guidance document

- WILL NOT provide more comprehensive and prescriptive advice
 - Most companies have policies
 - Existing programmes provide much material
- WILL provide **15 key markers**
- WILL provide advice for effective monitoring
- WILL provide ways to promote ethical recruitment market through open and transparent tender processes
- HIGHLIGHTS critical areas to prioritise in developing, implementing and monitoring recruitment processes
- Guidance complements certification programmes
- What is needed now is responsible recruitment PILOT PROJECTS

15 Key Markers

	MARKER
1	Ensure a “good governance”-focused responsible recruitment policy
2	Direct worker sourcing policy
3	Do not confiscate or retain workers’ personal documents
4	Organize training programs on responsible recruitment
5	Allocate an appropriate budget for responsible purchasing practices
6	Avoid using destination country recruitment actors or intermediaries
7	Promote an open tender recruitment agency selection process
8	Create a realistic recruitment timeline and payment schedule
9	Impose realistic warranty conditions on recruiters
10	Ensure independent third-party monitoring and verification, including grievance mechanisms
11	Maintain a fair and open candidate selection process during recruitment
12	Provide adequate, accessible information on employment
13	Guarantee access to remedy and accountability
14	Encourage source country agency due diligence practices toward end-user employers
15	Encourage humane treatment of workers

Marker 1: Ensure a “good governance”-focused responsible recruitment policy

- Policies consistent with ensuring ‘good governance’ and preventing corruption
- *Background: policy commitments start of a process only*
- *Background: many actors, more than required*
- *Background: ‘Kickback process’ prevalent, corruption undermines policy*
- Do not engage in or become complicit in corruption or financial crime
- Focus on good governance included in existing responsible recruitment policies
- Specific mention of risks of kickback and need to prevent these
- **Significant damage can result for brands, buyers and suppliers**

How to Prevent Kickbacks?

⇒ **Recruitment processes interactively agreed with input from experts and stakeholders IN ADVANCE**

- ◇ Recruitment stages

- ◇ Costs

- ◇ Timelines

- ◇ Responsibilities

- ◇ Negotiated

- ◇ Triangulated

⇒ **Recruitment costs paid through banking systems by employer**

⇒ **Payments/processes monitored by employer, require documentation, constant vigilance**

⇒ **Buyers can require transactions when monitoring supply chains**

⇒ **Burden placed on suppliers to prove responsible recruitment**

⇒ **OPPORTUNITY: develop recruitment costs, processes and timelines by corridor**

Marker 2: Direct worker sourcing policy

- **Ensure direct sourcing of worker candidates, complying with local regulations**
- *Background: workers have limited literacy and experience, live in remote areas*
- *Background: worker utilize intermediaries (brokers, subagents, relatives, referral)*
- *Background: charged fee or inflated costs, hard to detect due to coaching/ culture*
- With some exceptions, recruitment intermediaries illegal, should be prohibited
- Local campaigns to seek out candidates in villages/job fairs in communities, branch offices may be useful
- Consider use of technology vs. literacy challenges
- Employer should be as involved as much as is practically feasible
- Agencies should follow local law

Sourcing strategies

- Sourcing strategies discussed and agreed upon in advance
- Focusing on direct candidate sourcing strategies may result in higher costs
- List certified recruitment actors to ensure compliance and knowledge
- Limit the number of candidates, no more than 5-10% KIV
- Referral systems risky, referrals should not be given privileged treatment
- Require evidence of negotiated sourcing strategy when monitoring/auditing
- Becomes easier once agency is established as 'responsible
- Case studies for change

Marker 3: Do not confiscate or retain workers' personal documents

- **Do not hold documents longer than needed, agree on timeline**
- *Background: retention to encourage departure/minimize risk*
- *Solution: ensure terms and conditions of payment of costs separate to fee, not linked to departure, enables risk sharing*
- Consent form essential
- Once documents utilized (photocopied), available without conditions and in a convenient manner for worker
- Require evidence of document retention policy and practices

Marker 4: Training programs on responsible recruitment

- Organise capacity building and 'mentoring' programmes to ensure relevant staff/management knowledgeable
- *Background: lack capacity on language of social compliance*
- Simplify, prioritise small group mentoring rather than general trainings to ensure practical skills developed
- Training should be given to all actors who are 'relevant'
- Training of trainers (ToT) cascaded operations/supply chains
- Decide what knowledge is needed and by whom
- Request evidence of training records and materials

Marker 5: Allocate an appropriate budget for responsible purchasing practices

- **Allocate appropriate and sustainable budget**
- **Ring fence costs for price negotiations with buyers**
- *Background: underestimate costs to secure demand. Non-budgeted costs.*
- *Solution: open tender process and triangulation of actual costs*
- Costs contained in agreement prior to recruitment, change where appropriate
- Sustainable profit to promote responsible vs. irresponsible recruitment
- Responsible recruitment practices can cost less than irresponsible ones (overcharging, unnecessary actors)
- Require evidence of objective budget allocation and responsible purchasing

Marker 6: Avoid using destination country recruitment actors or intermediaries

- **Avoid destination country actors, bring recruitment in-house**
- *Background: destination country actors vehicles for corruption*
- *Solution: remove as unnecessary or, when essential, closely monitor. Delink from housing, transport, welfare provisions*
- If a destination country recruitment actor is utilized
 - Use open tender selection process
 - Check legal status
 - Not intermediary for payment
- Require suppliers to commit not to using destination country actors or prove evidence such actors essential

Marker 7: Promote an open tender recruitment agency selection process

- **Promote transparent selection of actors to promote good governance, ensure most professional service, ensure value for money, promote responsible recruitment market**
- *Background: HR/managers subjectively appoint, linked to long-term, non-transparent, uncompetitive pricing and reduced service quality. Risks of bribery/kickbacks*
- *Solution: essential recruitment contracts not awarded based on ability to pay*
- Objective, standard open tender (procurement) process conducted with due diligence
- Incentivises responsible actors - skills, professionalism, value for money recognised with business opportunities
- Requires objective pre-sourcing assessments, Self-Assessment Questionnaire (SAQ), Selection Audit Framework, Corrective Action Plan (CAP) Framework
- Require open tender processes and request evidence when auditing/monitoring

Marker 8: Create a realistic recruitment timeline and payment schedule

- **Sustainability/viability depends upon realistic timelines and realistic cost payment schedules, business model recognising cash flow limitations**
- Agree realistic recruitment timeline in advance to avoid bribes
- Responsible recruitment less flexible than irregular processes
- Compliant deployment timeline, minimizes risks to workers, avoid excessive recruitment
- Recruitment related costs advanced at different stages of the recruitment
- Essential for managing cash flow as candidates not paying costs or deposits
- Invoices cleared promptly, standard payment often do not allow adequate cash flow, cover flight costs to avoid challenges
- Require explanation of timelines and payment schedule when monitoring

Marker 9: Impose realistic warranty conditions on recruiters

- **Aligns with responsible purchasing practices and realistic payment schedule**
- **Negotiate service agreements laying down fair terms and conditions of shared responsibility and warranty**
- *Background: if warranty conditions stringent, risk to workers freedom of movement, deposits, passport retention*
- **Recruitment actors often shoulder unfair burdens, punitive penalty clauses – liability only for actions or omissions within field of control.**
- **Require evidence of contracts outlining fair warranties**

Marker 10: Ensure independent third-party monitoring and verification, including grievance mechanisms

- **3rd party monitoring during recruitment and on arrival reduces risks**
- *Background: workers will not disclose costs and fees unless trust/confidence. More trust in intermediaries*
- *Solution: 3rd party monitors, former migrants or trade unions/civil society, utilised to build trust and confidence. Disclosure not punished*
- Independent stakeholders with in-depth understanding help to overcome challenges and risks
- Independent third-party grievance give platform to candidates to raise their voices
- Independent monitoring improves recruitment related challenges continually
- Three stages of monitoring with workers: post selection, pre-departure and post-arrival.
- Hotline useful, as is third party involvement in plannings, pre-selection, briefings and PDOs
- Coercive techniques including audio and video recording avoided, not useful
- Encourage internal grievance/whistleblowing mechanisms, make external channels available, do not overdo it
- Note limitations of technology or worker voice tools/solutions without trust

Marker 11: Maintain a fair and open candidate selection process during recruitment

- **Candidate selection process is fair, non-discriminatory and objective**
- *Background: frequently pay most, get selected. Negative for employer*
- *Solution: objective selection process, with confidence and trust building that selection is based solely on objective criteria, prevents workers paying*
- Equal opportunity based on ability to do job, not willingness to pay or referrals
- Pre-selection by authorized staff, final selection by employer, no rights given to recruiter unless fair and objective
- Require evidence of standard used in pre-selection and selection - monitor job advert, screening, shortlisting, testing, interview notes, selection materials
- No first come first served recruitment
- Fair and objective selection processes enhances reputation, reducing risks

Marker 12: Provide adequate, accessible information on employment

- Info provided on terms and conditions of employment enough to ensure informed consent
- Amount of information increasing during process
- *Background: sleeping, inattentive workers due to formality, inappropriate language, uncomfortable setting. Workers with limited literacy struggle to absorb info*
- Advertisements contain essential, accurate info to make informed decision to apply
- Exact nature of info depends on nature of recruitment, work and candidates' literacy
- Advertisements approved by employer - agree on an accurate package of job information
- Interactive briefings in language workers understand, job-offer letters, PDO and contract expands
- Provide draft contract following selection so time to consider/consult
- Candidates tested on their understanding to encourage attention, quiz style
- Require evidence of accurate, adequate information provided to candidates in interactive fashion

Marker 13: Guarantee access to remedy and accountability

- Remedies provided prior to a candidate's departure, accountability for intentional unethical recruitment
- Irregularities detected and remedied prior to a candidate's departure contributes towards holding recruitment actors accountable
- [N.B. Impactt's Principles and Guidelines for the Repayment of Migrant Workers Recruitment Fees and Related Costs](#)
- When unethical recruitment practices, need thorough investigations and accountability – limited to remediation
- Disciplinary procedures and prosecutions deter future unethical conduct. Embassies, local authorities and brands and buyers notified
- Evidence of disciplinary procedures or accountability processes should be requested during monitoring

Marker 14: Encourage source country agency due diligence practices toward end-user employers

- **Employers should facilitate, participate, and cooperate in due diligence process by recruitment actors**
- Mandate recruitment actors visit worksites as part of the pre-recruitment planning
- Recruitment actors who understand employer operations, experience of workers, terms and conditions of employment more effective to accurately advertise job opportunities to ensure full and informed worker consent.
- Incentivise responsible recruitment by requiring evidence recruitment partners visited worksites prior to recruitment

Marker 15: Encourage humane treatment of workers

- Ensure candidates and selected workers always treated humanely
 - Not only prevent harsh, demeaning treatment or violence
 - Also humanize the recruitment process, respect and value workers
- Provide adequate facilities for workers
 - Space, ventilation, seating, rest areas, clean toilets, water, refreshments, snacks and full meal as required
- Do not want to see workers going without food to keep space in recruitment queue or hungry during briefings and processes

Questions and answers session

- Welcome any questions