

Due Diligence Guide

CHECKLIST TO GUIDE THE SELECTION OF
RECRUITMENT AGENCIES IN HONG KONG



This Due Diligence Guide provides simple checks to help your family successfully recruit a helper and save you from scams and stresses by unprofessional recruitment agencies, at all stages of your hiring journey:

1. Pre-hiring: Checks to undertake when selecting a domestic worker recruitment agency
2. During hiring: Questions to ask an agency to understand their processes and charges
3. Post-hiring: Recommendations to cross-reference your service experience with the domestic worker once you have hired them.

Pre-hiring: Checks to undertake when selecting a domestic worker recruitment agency

If you decide to use a recruitment agency to find a helper for your household, you should consider a range of factors. There is currently no independent certification of recruitment agencies available, so before you decide to pay an agency for their services, please try to gain a clear understanding of their service offer, fees and charges and processes by checking:

- A. Is this recruitment agency licensed by the Hong Kong Labour Department?

The list of licensed recruitment agencies can be found here:

<https://www.eaa.labour.gov.hk/en/search.html>

The list of all POLO-HK accredited agencies can be found here:

https://polo-hongkong.com/search_agency_hk.php

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- B. What are their reviews like? Such as, customer references or word of mouth of friends and family?
- C. Has the recruitment agency provided a clear list of all services and expenses they will charge you for?

Standard services fees that employers need to pay and should be clearly listed in a pricing overview are:

- Hong Kong Immigration visa fee
- Medical examination
- Consulate fee

In addition, for first-time hires, break, and terminated contracts, standard fees would include:

- Mandatory insurance in the domestic worker's home country
- Flight from the domestic worker's home country to Hong Kong
- Partner agency fee in the domestic worker's home country
- Travel allowance of HKD100

- D. What are the charges to the worker?

By law, recruitment agencies in Hong Kong are allowed to charge helpers an amount not exceeding a sum equal to 10% of the first-month's wages received by such person after he/she has been successfully placed in employment by the Agency¹. (approximately HKD460, if she is being paid minimum wage, as per September 2020).

The only exception to that are domestic workers who come to Hong Kong for the first time. Different countries of origin have requirements for workers prior to migration. Workers from the Philippines are required to take skills assessment to get a National Certificate on domestic work prior to deployment. The skills assessment needs to be paid by the worker, while the skills training is not

¹ https://www.eaa.labor.gov.hk/_res/pdf/CoP_Eng.pdf

*As per August 2020

required unless the worker's employer chooses to pay for specific skills that they require of the domestic worker.

Any agency that charges the helper beyond the legal maximum or is unwilling to share any of the requested information listed under 1-4 should raise concerns about the professional and ethical standards of this agency and we suggest choosing a different agency.

If 1-4 seem satisfactory this agency may be trustworthy, yet we recommend the following simple checks while they are providing you with matching and placement services.

During hiring: Questions to ask an agency to understand their processes and charges

As you are engaging with the agency to identify a suitable helper for your family please check:

- A. Did the agency ask about your living situation and needs as an employer?
- B. Is the agency being mindful of your requirements as they refer workers to you to ensure the right match?
- C. Did the agency provide a standard service agreement, between you and the agency?

For example, check the terms covering contingency (e.g. replacement arrangements or refund) for late or non-arrival of domestic helpers: if the contract terms offer a full refund, or offer employers to trial several domestic workers but only charge them one fee, there is a risk agencies may be charging the domestic workers illegally to make profit while wasting your time and effort in interviewing and hosting unsuitable candidates.

- D. Has the agency taken you through the employment contract that will be signed with the domestic worker?

To check the quality of the contract, you can refer to the sample employment contract provided by the Hong Kong Department of Labour:

[Sample employment contract \(labour.gov.hk\)](http://labour.gov.hk)

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- E. Did the agency inform you and the helper about your respective statutory and contractual rights and obligations?

E.g. minimum one month notice period by both sides, working hours expected on both sides, statutory holidays, salary.

Contractual entitlements for the worker would include one rest day per week, access to sufficient and decent food or a food allowance paid on top of the monthly salary, insurance and maternity leave.

- F. Did the agency allow you or ask you to interview the helper ahead of signing the contract with them?

You should expect the agency to encourage you to interview workers as part of the matching process. Agencies that do not allow or require employers to interview workers ahead of time should be flagged.

- G. Does the agency provide mechanisms to manage grievance, whether by you or by the helper? In addition, does it have a process to manage grievance between you and the agency, or between the worker and the agency?

- H. Have you been provided with receipts that you consider valid?

If the agency provided satisfactory services, addressing questions 5-11 they may be a professional recruitment agency. Nevertheless, it is important to check with your new employee whether the service they experienced matches yours in order to determine whether this is an ethical/fair agency.

Post-hiring: Recommendations to cross-reference your service experience with the domestic worker once you have hired them.

- A. Has the recruitment agency provided your helper with a contract in a language that they can understand, and did they explain the contract provisions to your helper?
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- B. Does your worker have her own identity documents in her possession? Including work permits, passport, personal phone and belongings, etc.
- C. What, if anything, did the recruitment agency charge your helper? If anything, was your helper provided with receipts?² Are the fees and charges within the legal limits?

In the Philippines, no placement fees (service fees to the recruitment agency in the Philippines) can legally be charged to the worker; however, other documentation fees, such as passport and police/NBI clearance, birth certificate, authentication fees etc³, are paid by the worker. In Indonesia, the charging of placement (and training) fees to workers will be illegal starting in July 2021. In Hong Kong, the maximum allowable fee to be charged by recruitment agencies is 10% of the first month's salary, after this has been received by the worker. https://www.eaa.labour.gov.hk/res/pdf/CoP_Eng.pdf

- D. Has the recruitment agency informed the helper about the nature of the job, the living and working arrangements and number of household members?

If questions 12-15 suggest a positive service experience for you and your helper then this sets an invaluable foundation for a positive employment relationship.

Should any of the points under 12-15 represent a mismatch of information, please protect yourself and your employee by investigating facts and reporting any excessive placement fees charged or withholding of receipts and documents by the recruitment agency in Hong Kong, or the counterpart agency in the country of origin of the worker, to the Hong Kong Labour Department and their relevant consulate.

Holding identity documents, including passports and HKIDs, without the permission of the owner is an offence under the Theft Ordinance and carries a maximum penalty of up to 10 years imprisonment. If a worker you hire has had her passport confiscated by an agency please help her get it back and report the agency to the police and Employment Agencies' Administration.

² By law, recruitment agencies in Hong Kong are not allowed to charge helpers more than 10% of their first month's wages, approximately HKD460. https://www.eaa.labour.gov.hk/res/pdf/CoP_Eng.pdf

³ See POEA Rules and Regulations 2016. <https://www.poea.gov.ph/laws&rules/files/2002%20POEA%20Rules%20on%20Overseas%20Employment%20of%20OFWs%20Full%20Text.pdf>

As an employer, your report will be taken more seriously than one filed by a migrant domestic worker.

To report an agency: <https://www.eaa.labour.gov.hk/en/contact-us.html>

Top Tip for creating a positive and trust-based relationship is to assist your helper in setting up a bank account to pay her monthly salary in, should she not have one yet.

Resources for your helper:

If your worker does have a case against the agency, there are several steps she could take:

- Report the agency to the Employment Agency Administration (EAA).
- Access the grievance mechanisms provided by the agency; alternatively, the Migrant Forum Asia provides a grievance mechanism to help migrant workers across South East Asia, which can be accessed here: <http://mfasia.org/online-complaints-form/>
- Contact a union or Non-Governmental Organisation (NGO) for support, for instance the Federation of Asian Domestic Workers, FADWU // Address: c/o HKCTU, 19/F, 557-559 Nathan Road, Kowloon, Hong Kong // Tel: +852 2770 8668 // Whatsapp: +852 6851 2879 // Email: fadwu.hk@gmail.com
- If your worker goes to court, please support her during the case. Give her the time to go to provide evidence and understand that this may be a lengthy process. We find that when you support your worker through these difficult situations, you will be building trust and building a better and long term working relationship.

Thank you!

Your efforts in choosing a law-abiding, quality recruitment agency will save you time and money in the long run by helping you in finding the person you need to support your household, enable a mutually beneficial employment relationship and create a harmonious home.

A review of existing materials as shared and provided by Civil Society Organisations (CSO), national institutions, and International Organisations that hold a common interest in engaging employers in the treatment and recruitment of MDWs, has been undertaken to inform this tool. These resources include:

- Hong Kong Code of Practice for Employment Agencies: https://www.eaa.labour.gov.hk/res/pdf/CoP_Eng.pdf
 - Hong Kong Labour Department Employment Agencies Portal <https://www.eaa.labour.gov.hk/en/disclaimer-search.html>
 - ILO general principles & operational guidelines to fair recruitment and definition of recruitment fees and related costs. [Chinese version](#). [English version](#).
 - Reporting on forced labour and fair recruitment, An ILO toolkit for journalists <https://readymag.com/ITCILO/1292461/>
 - AKHMA Fair and Ethical Recruitment Standard (FERSA)
 - MIGRASIA: <https://www.facebook.com/groups/634868316863727/permalink/1171940289823191/>
 - Helpwise: <https://www.sassymamahk.com/ask-mel-whats-the-best-way-to-find-a-helper/>
 - Enrich 10 TIPS: <https://enrichhk.org/resources-employers>
 - FADWU resource: Agents of Change: https://view.publitas.com/rights-exposure/agents-of-change_report_final_cn/page/1
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About this tool:

This Due Diligence Guide is a complementary resource for potential employers that have been made aware of the ILO campaign for fair recruitment, and are looking for guidance to identify reliable, professional and ethical recruitment agencies in order to recruit a domestic helper.

The ILO employer awareness campaign seeks to motivate employers to seek out a recruitment agency that provides a professional, transparent and ethical service to them and their employee. One of the tools proposed to employers under the campaign Call of Action is a resource that empowers them to make an informed choice, when selecting a recruitment agency.
