

ETHICAL International Recruitment

Ethical International Recruitment FAQs

How to use this document

This document is designed to help providers of adult social care better understand the concept of ethical recruitment and how they can embed ethical recruitment principles into their work. These FAQs are mainly derived from the ethical recruitment webinars delivered by BA Healthcare between August and October 2023.

1. What is ethical international recruitment?

Ethical international recruitment is the creation of systems, processes and approaches to international recruitment (bringing people to the UK and recruiting overseas workers already here). These embed ethical recruitment principles so that overseas workers are protected from abuse in the UK, or in their home country,

Ethical international recruitment is quite a big topic and a big, current issue in health and social care in the UK.

2. Why is ethical recruitment important?

Overseas workers, particularly if they are relocating from less wealthy countries, are often vulnerable to many forms of exploitation and abuse. This can be serious and having serious consequences for them and their families before, during and after their relocation. In some cases, the unethical treatment may be illegal in their home country, host country, or both.

Ethical recruitment helps protect overseas workers from exploitation and abuse, but its principles also help to ensure that overseas workers move into job roles that are a proper fit for their skills and attributes, ensure they make informed choices about their relocation and are properly prepared for work and life in a new country. This, in turn, ensures that they are able to contribute fully to the provider that they work for and ensures high rates of retention.

The adoption of ethical recruitment principles also shields providers from reputational and other risks that unethical recruitment may expose them to.

3. How is ethical recruitment different from fair recruitment?

Fair and ethical recruitment are closely linked, however fair recruitment is more focused on processes that ensure that applicants are treated fairly and equally during the course of the recruitment and on-boarding process. Because international recruits often come to providers through different routes to UK employees, they are more vulnerable to mistreatment and go through very different and often longer processes to begin work. More often than not, they will also have to relocate, often over a very long distance to take up their role, this means their understanding of the role and their life outside of their work may be limited.

Ethical recruitment, therefore, is focused on ensuring the entire process that overseas recruits go through allows them to be properly prepared for life and work overseas, as well the recruitment process itself being fair.

4. What are the sources of ethical recruitment principles?

There are various sources for the principles of ethical recruitment. Among the most important are those set out by the International Labour Organisation and World Employment Confederation. The most important detailed source for providers in England is the The Code of Practice for the International Recruitment of Health and Social Care Personnel in England.

5. What is the Code of Practice for the International Recruitment of Health and Social Care Personnel in England?

The Code of Practice for the International Recruitment of Health and Social Care Personnel in England is a document created by DHSC and intended to guide all health and social care providers to best practice in ethical international recruitment.

The Code of Practice contains a set of general guiding principles and a set of benchmarks which provide specific guidance to providers on what ethical recruitment is.

The Code of Practice also contained important definitions, provides for the creation of an approved ethical recruiters list and details of the red, amber and green listed countries where active recruitment should not take place.

6. What are the ethical recruitment benchmarks?

Ethical recruitment activity and processes should follow these 12 (summarised) benchmarks:

- There should be no active red-list recruitment.
- All recruitment will follow good ethical practices (and work with people that do).
- There should be no charging of fees for finding work.
- All recruits will have an appropriate level of English.
- All international personnel will be registered with professional bodies, where applicable.
- All international workers will be fully supported in any required supervised practice.
- All international personnel will receive an occupational health assessment.
- Employers will make appropriate pre-employment checks.
- All workers will hold appropriate visas.
- Employers and agents will provide sufficient information to ensure informed decision making.
- Fair and transparent practices in relation to contracts of employment, for example, ensuring that contracts of employment properly reflect job offers and terms around allowances and expenses and repayments are made clear.
- Any repayment clause included in an employment contract must abide by the 4 principles of transparency, proportionate costs, timing and flexibility.
- Employers will structure proper and effective on-boarding.
- Employers will gather and retain data in order to support the monitoring and measurement of international workforce flows.

7. Is the Code of Practice a legal document?

No, the Code of Practice is *not* a legal document in itself but its principles are very important and some breaches of the Code of Practice, for example not charging applicants for finding a job, could have legal consequences.

8. Should I follow the Code of Practice?

Yes, it is very important that providers follow the Code of Practice and embed it into their international recruitment activity. This helps to protect their reputation, good standing with agencies such as the CQC and UKVI and most importantly, it protects the overseas workers.

Bodies such as CQC and UKVI may require you to provide evidence that your international recruitment processes are robust and fair and actively avoid unethical treatment of overseas workers.

9. Are there countries I should not recruit from?

Many countries that send health and care workers to the UK and other countries, already have health and care systems that do not have enough staff and do not have the capacity to replace people who have left to go overseas. In some countries, this problem is so serious that it causes harm to the local population.

The World Health Organisation categorise countries as red, amber or green depending on their ability to send health and social care workers overseas without damaging their own health and care systems. These categories are adopted by the The Code of Practice for the International Recruitment of Health and Social Care Personnel in England.

You should not *actively recruit* from red or amber list countries, unless there are government to government agreements in place. If an agreement exists you must recruit within the rules laid out in that agreement. You can recruit freely from green list countries.

10. What is 'active recruitment'?

Active recruitment is any sort of activity where a provider encourages people to apply to work for them, this includes advertising and working with third party agents or recruiters in-country.

You can employ people from red or amber list countries who approach you directly or, for example, who are already working outside their home country.

11. Is it unethical to recruit anyone from a red or amber list country?

Yes. Actively recruiting from red and amber list countries can have serious effects on the health and social care systems of those countries and the access the local population have to quality health and social care.

12. What countries are on which list?

NHS Employers maintain an up to date list based on information from the World Health Organisation.

13. How do I plan an ethical international recruitment process?

It is important to plan any overseas recruitment carefully.

There are 3 stages to a sound ethical international recruitment process:

Step 1 – the first step is to identify clearly what the need is. Think medium to long term – how many people will you need and into what roles? Ensure you understand the costs and regulatory burden that could be involved with that commitment. Ensure you have the capacity to comply with the requirements and provide the practical help and support overseas recruits will need. You should also consider the impact on the current team and their ability to support overseas colleagues.

The result of this stage should be a detailed project plan which includes details of the candidates' journey from first contact until they are properly embedded in their new role and new home.

Step 2 – put in place an ethical recruitment risk assessment. Identify the risks that apply to the individuals you are targeting as potential applicants and territories you will recruit from. Also identify risks that they may be exposed during the process of coming to the UK and in the period immediately following their arrival.

Step 3 – build the capacity to comply with the relevant processes, ensure all necessary permissions and licences are in place and there is ownership of each part of the recruitment process. Ensure there is clarity on the recruitment process itself and there is capacity to deliver the sort of on-boarding experience that will ensure an effective transition to work in the UK.

14. Can I charge an overseas worker for giving them a job?

No. It is illegal under UK law to charge a worker for the service of finding them or providing them with a job. It is also illegal in most countries where overseas workers are recruited to do this, so it is important you do not take payments overseas or allow agents or recruiters to do this or do this on your behalf.

15. Can I charge an overseas worker for their COS?

No. A provider is required to pay the fees for the workers COS *and* the Immigration Skills Charge. These fees must be paid by the provider/employer and cannot be passed on to the employee under any circumstances.

16. Can I charge an overseas worker for training?

Overseas workers should not be charged for training that essential to ensure they can do their job safely and they should be paid at the usual rate for time spent undertaking mandatory training. You should ensure that candidates are not being charged for unnecessary or poor-quality training by anyone who is helping them to the UK.

As long as it is in line with how you treat other workers, you may require overseas workers to pay their own professional or registration fees.

17. Do I have to change my recruitment process?

The process you use to recruit in the UK probably won't be enough to successfully and ethically recruit overseas. You will need to plan and research carefully to understand where you can recruit, how you can recruit and the profile of the people that your recruitment will reach, to ensure they will be able to properly and successfully integrate into ASC in the UK.

You will also need to look at how whether your UK processes will be effective to identify the best applicants and understand cultural gaps in how people communicate information about themselves both in written applications and in interviews.

It is important to consider how interviews, particularly if they take place remotely take account of cultural differences and the limited understanding that even well-prepared candidates have of the systems and processes in the UK.

You also need to remember that in addition to finding and on-boarding a worker, you may have to support them through immigration processes.

Finally, you look carefully at the documents you use throughout the recruitment process. Workers who are already in the UK are likely to be more familiar with a UK workplace, working hours and practices, etc. Workers who are outside the UK or recently arrived may not be. It is essential therefore that your advertisements and correspondence with applicants provides as much detail as possible about the job and what work and life in the UK will be like so that applicants can make informed decisions about a major change in their life. You should ensure that clear and complete terms are provided alongside job offers and if possible, make clear what deductions may be made from salaries (e.g. income tax, NI, etc.) and what working patterns will be expected. Things like this may be very different from what the anticipated or has experienced before.

For any role where the worker will be required to take on team leader or management responsibilities, or to make decisions about care, it is critical that this is made clear at the earliest possible stage as even experienced staff in some overseas settings may not have worked independently or overseen others before.

18. Do I have to work with an agent of recruiter?

You can do every aspect of the work to find and bring someone to the UK (or employ someone who is already here) yourself but it can be time consuming and expensive, especially when you first start. You may find it difficult to sift applications and you may be unsure how to secure a UKVI sponsor licence. An agent or recruiter should be able to manage some or all of the processes for you, while also helping you to build capacity to welcome and on-board overseas workers.

19. How do I find an agent or recruiter?

Agents or recruiters advertise widely but many are not as active or large or knowledgeable about ASC as they claim. Consider asking other providers who they would recommend. Care associations and sector bodies can also be very helpful and will usually have vetting processes in place. Always ensure that the agent or recruiter is an NHS approved ethical recruiter. Where possible, try and meeting the recruiter in person to have a thorough discussion about their business and ways of working.

20. How do I ensure my agent or recruiter is working ethically?

It is important to put in place a process to ensure you scrutinise any agent you work with. In addition, you may find it helpful to use agents or recruiters recommended by other providers, sector bodies and care associations. Always use a provider from the NHS ethical providers list.

In addition, undertake a due diligence process focusing on:

- What is their business model, who is being charged for what?
- How does they gather candidates?
- Does the agent have references/recommendations?
- Can the agent connect you to people they have placed?
- Does the agent have a physical premises and appropriate people to support in the way they say they will?
- Do they know and understand UK ASC?
- Are they actively interested in your organisation and in the people they place?
- What pre-departure and immigration work are they doing?

21. Do I have to find or provide accommodation?

There is no legal duty to provide or find accommodation but as an ethical recruiter, it is important this is considered, and support is provided where appropriate.

Overseas workers who are already in the UK may have already secured accommodation and be familiar with the housing market. However, a worker who is already in the UK but has only been in the country a short time may still need assistance, for example, if they are relocating.

Overseas workers coming to the UK for the first time will almost certainly need their employer to help secure or provide accommodation. Without a footprint in the UK, proof in income, etc. newly arrived overseas workers will struggle to find safe, suitable accommodation and may be at risk of scams and

Providers should try to provide basic information on how to source and secure housing and general advice to avoid scams, illegal lettings or unscrupulous landlords.

Providers may want to consider providing financial assistance, for example with a security bond or rent for the first few months.

22. Can I charge for accommodation or require a worker to use my accommodation?

A provider can charge for accommodation which they provide for the worker and which the worker has freely chosen to take advantage of. Providers should not force or require workers to take accommodation they offer. If accommodation is bundled as part of the package offered by the employer, it is important to ensure this does not have any impact on the payment of the National Minimum Wage and that it is made clear how what costs will be involved and on what terms the accommodation will be provided. This should be set out in writing, ideally at the same time the job offer is made.

23. Do I have to pay for a worker's transport to the UK?

There is no legal requirement to pay for a worker's transport to the UK but from an ethical standpoint you may want to consider paying for their transport, part of it, or advancing them money to help them pay for it.

Workers are often already on very low wages and may struggle to pay for transport, this could lead to them getting into debt, possibly through illegal borrowing and it may mean the best candidates for a job are unable to take up a job offer.

24. Can I recoup the costs of sponsoring and bringing a worker to the UK if they don't stay?

Yes. An employer can include a term in the contract of employment that sets out that the employer will have to pay a certain proportion of the employer's costs if they leave before the period of sponsorship. This term must be an accurate reflection of the employer's costs, but it must also reduce over time, reflecting that the employer has had value from the investment they have made in the candidate.

25. Is it okay to take a worker's passport?

No. Under no circumstances should an employer confiscate or hold passport or other ID documents.

26. Do I need to do anything to help an overseas worker settle in once they're in the UK?



There is no legal duty to provide any support, but it is important providers consider how they will help overseas workers to adjust to what not only be a new work place, new ways of working but any entirely different culture and lifestyle too.

This process should start in the recruitment process, ideally before recruitment has begun. It is important to get to know candidates, understand their expectations, backgrounds and needs and also to tell a story about what life and work will look when they arrive. This will make the transition easier, and it will also allow you to better prepare for their induction and on-boarding.