



CODE OF CONDUCT FOR PRIVATE EMPLOYMENT AGENCIES 2021



International
Labour
Organization



ACCEL Africa Nigeria

N I G E R I A

FOREWORD

Organizations that have weathered the storm of economic vagaries and grown to attain stability and relevance are known to be guided by principles, cultures, and Codes, which direct their affairs. The imperative for a code to regulate and set standards of operation could not be more relevant than in a developing economy like Nigeria and in a budding industry such as the Human Capital Providers' industry.

Private Employment Agencies (PEAs) play a critical role in the labour market, with many businesses considering them essential to ensure that the demand for labour in both local and international markets is met. Many workers choose agency work because of their circumstances and the greater flexibility that PEAs provide. Agency workers are also important in meeting the seasonal needs of some employers. For some workers, agencies act as a gateway to securing permanent work. On the other hand, some workers choose temporary work because it allows them to better balance their work with other commitments. Agency work can also appeal to some jobseekers because it offers the opportunity to learn new skills or try new jobs before changing careers. The vast majority of employment agencies are reputable and professional. However, there are a few agencies which exploit workers, particularly those that are vulnerable.

In recent years, the proliferation of PEAs and the challenge of curtailing unwholesome activities have raised the concern of stakeholders. Thus, in an attempt to regulate and set standards for the operations of Private Employment Agencies, this Code of Conduct becomes germane, not only to set standards of best practices, but also to nip in the bud the ever-alarming global threat of unwholesome labour practices including child labour and human trafficking.

The occurrence of the global pandemic occasioned by Covid19 infections threw the global labour market into great turmoil. Various actors in the labour market responded in ways that were unpredictable. Some PEAs were reported as not having standard offices, and a faction was reported within the Human Capital Providers Association of Nigeria (HuCaPAN), the existing association of PEAs, calling to the fore a suggestion for the democratization of the industry. There were several reports of workers' exposure to hazards in non-conducive environments. Some of the resultant uncertainties have affected the fortunes of other participants in the market, as well as the reputation of the operators and clients of PEAs.

Most of the Nigerian citizens working abroad are facing all kinds of violations, ranging from sexual abuse, exploitation and enslavement, especially domestic workers and children who are within the legal working age. Furthermore, standards are neglected because Nigerians are eager to gain employments by all means, resulting in some recruiters taking advantages of job seekers.

Against the backdrop of the above, PEAs expect high standards of ethical behaviour from its members. To support these expectations, this Code of Conduct and appropriate sanctions for non-conformity, was developed. It aims to outline the professional conduct and behaviour required of registered and approved employment agencies. It stipulates the expected behaviour and conduct using six values which underpin the profession: integrity, dignity, responsibility, respect, justice, and care. This Code represents a long tradition of the organized private sector in fostering corporate ethics and best practices. It provides a principle-based approach that acknowledges the peculiarities of our environment and dynamics of the private recruitment industry. It is hoped that registered private employment agencies will use the Code along with employer codes/policies, existing labour laws and other professional codes to guide their professional conduct and behaviour.

We are, indeed, happy, to be involved in the crafting of this Code of Conduct, which is as a result of the collaborative efforts of HuCaPAN - an association of Private Employment Agencies in Nigeria, Nigeria Employers' Consultative Association (NECA), the Federal Ministry of Labour and Employment, and the International Labour Organization (ILO). The ILO provided the financial and technical support within the framework of the FAIRWAY and ACCEL Africa-funded project. The ILO engaged Professor Olusola Fajana to co-ordinate the review of the Code of Conduct, together with the ILO Social Constituents (Government, Labour and Employers). Mr Augustine Erameh and his colleagues, Chinyere Emeka-Anuna, Grace T. Sebageni, Dino Corell, and Sarah Inokoba provided important inputs to the Code. Acknowledgement is further due to Agatha Kolawole of the ACCEL Africa Desk at the ILO. Others are Jane Hodge, Anna Olson, and Nguyen Kim Phuong, all of the ILO in Cambodia and Vietnam.

We urge all Private Employment Agencies to ensure the application of this Code of Conduct as its use will usher in a new phase in the evolution of this nascent industry and foster a healthy expansion.

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ACRONYMS

CB	Collective bargaining
CoC	Code of Conduct
FA	Freedom of Association
FMLE	Federal Ministry of Labour and Employment
FMLP	Federal Ministry of Labour and Productivity (old name)
GCM	Global Compact for Safe, Orderly and Regular Migration
HuCaPAN	Human Capital Providers' Association of Nigeria
ILO	International Labour Organization
NAPTIP	National Agency for the Prohibition of Trafficking in Persons
NECA	Nigeria Employers' Consultative Association
OSH	Occupational Safety and Health
PEA	Private Employment Agencies
PEAUB	Private Employment Agencies Umbrella Body

GUIDING AUTHORITIES

Identification Code	Name of Legislation or Standard	Summary of relevant provisions
C181	Private Employment Agencies Convention, 1997	This Convention applies to all categories of workers and all branches of economic activity, except seafarers. It allows the operation of private employment agencies as well as the protection of the workers using their services.
C96	The Fee-Charging Employment Agencies Convention (Revised), 1949	Such agencies shall be subject to the supervision of the competent authority; be in possession of a yearly licence renewable at the discretion of the competent authority; and shall only charge fees and expenses on a scale submitted to and approved by the competent authority or fixed by the said authority.
R188	Private Employment Agencies Recommendation, 1997	In parts, this Recommendation regulates the relationship between public employment agencies and private employment agencies. It prohibits the employment of personnel to replace workers who are on strike and contains other provisions in support of workers' protection.
C143	Migrant Workers (Supplementary Provisions) Convention, 1975	This Convention regulates migration in abusive conditions and provides for equality of opportunities and treatment.
C97	The Migration for Employment Convention (Revised), 1949	This Convention provides grounds for establishing bilateral and multilateral agreements for the benefit of migrant workers, where necessary.
R86	Migration for Employment Recommendation (Revised), 1949	This document contains excellent definitions for the following terms: migrant for employment, recruitment, introduction, and placing. Annexed to it are conditions for training, transportation, remittances, food, housing, and the kindred welfare needs of migrants.
Labour Act	Labour Act 2004, Nigeria	Sections 23, 24, 25 and 71 cover recruiters' licenses for public and private employment agencies.
GP 7	General Principles and Operational Guidelines for fair recruitment 7	This document provides the definition of recruitment fees and related costs.

C29 and its 2014 protocol	Forced Labour Convention, 1930	This Convention gives coverage to the protection of victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory. The 2014 Protocol provides specific guidance on effective measures to be taken to eliminate all forms of forced labour.
C138	Minimum Age Convention, 1973	This Convention supports the effective abolition of child labour and progressively raising the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.
C182	Worst Forms of Child Labour Convention, 1999	This Convention concerns the prohibition and elimination of the worst forms of child labour, and the mandate of member states to take immediate and effective measures to achieve such ends.
C189	Domestic Workers Convention, 2011	Under this Convention, every domestic worker has the right to a safe and healthy working environment.
GCM Objective 23	Global Compact for Safe, Orderly and Regular Migration (GCM)	Under this Compact, Government shall seek bilateral or multilateral agreements. Specifically, the instrument concentrates on challenges presented by uneven development and prescribes support among nations.

DEFINITION OF TERMS

Child labour: Work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It also refers to work that is mentally, physically, socially or morally dangerous and harmful to children, and interferes with their schooling.

Employer: Any person or entity that engages employees or workers, either directly or indirectly.

Client: A person or an organization other than an employee who requires the services of a Private Employment Agency.

Forced labour: All work or services that is/are exerted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily – (ILO Convention 29 on Forced Labour).

Migrant Worker: A person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account. This term includes any person regularly admitted as a migrant worker (ILO Convention 143 on Migrant Workers).

Private Employment Agency (PEA): Any organization that is registered with the Corporate Affairs Commission and holds a Recruiter's License to engage in the recruitment and placement of employees (outsourcing), locally or overseas.

Prospective Client: A corporate organization who seeks the services of a PEA to provide recruitment or outsourcing services for the organization within or outside Nigeria.

Prospective Employee: A person who seeks the services of a PEA in order to find job placement or employment within or outside Nigeria.

Recruiter's License: A document/permit issued by the Federal Ministry of Labour and Employment authorizing a person or entity to operate a private employment agency.

Recruitment: includes the advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of

origin, where applicable. This applies to both job seekers and those in an employment relationship.

Recruitment fees or related costs: refers to any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection. Trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude domestic, sexual or reproductive) in forced or bonded labour, or in slavery-like conditions, the removal of organs or generally for exploitative purposes. [Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015.]

The international definition for “trafficking in persons” is found in Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

“**Trafficking in persons**” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;”

INTRODUCTION

It is worthy of note that the publication of a Code of Conduct (CoC) is important for many reasons. Though it only provides guidance to the members, a code of conduct is a statement of commitment about how a group or organization expects to be perceived and, ultimately, judged. This is nowhere more the case than in the private employment sector, which in some way or other, touches everyone in the community. The actions of each and every member of the sector will shape the way the members, their organization and the sector as a whole are perceived.

The private sector continues to evolve and adapt to meet new and ever-changing business demands and environmental challenges. At the same time, it is essential that this sector retains the key attributes that have allowed it to play its critical role with the full confidence of Government and the wider community for many years. These key attributes are its apolitical nature, responsiveness, effectiveness and accountability; and it is precisely these values that this Code seeks to reinforce and project.

Private Employment Agencies (PEAs) are gaining ground around the world. Services provided by PEAs represent a modern answer to reconcile the requirement of labour flexibility for user companies, and the need for work security for employees. Being aware of such economic and social responsibility objectives, PEAs have on their own adopted, for many years, self-regulatory codes of conduct at the country-level.

In view of the growing importance of the work of PEAs and the need to strengthen self-regulation principles in order to enhance quality standards in the sector, the Human Capital Providers' Association of Nigeria (HuCaPAN), in collaboration with the Nigeria Employers' Consultative Association (NECA), the then Federal Ministry of Labour and Productivity and the International Labour Organization (ILO) established for the first time in 2011 a Code of Conduct, specific to Nigeria's situation, and which provides generally agreed principles on Private Employment Agency practices.

Ten years after adopting and implementing the Code of Conduct, visible challenges remain glaring, especially as it relates to the occurrence of the global pandemic occasioned by Covid19, and the increasing abuse of migrant workers by some PEAs. Other challenges are unawareness of the existence of the CoC, the issue of the democratization of the industry, the application of the normative contents, the absence of a monitoring and evaluation framework to assess the level of implementation and compliance to the provisions contained therein, and other issues.

Given the labour market role of PEAs in job creation and decent work, a revision and updating of the existing Code of Conduct for PEAs becomes increasingly critical. In collaboration with the Federal Ministry of Labour and Employment (FMLE) and other ILO Constituents, the revision of the 2011 PEA CoC for Nigeria was considered requisite and was therefore undertaken between August and November 2021.

This revision significantly differs from the 2011 version in marked ways. A whole new section is appended to put a strategic focus on the role of the FMLE as the ultimate regulator of the PEA industry. This section is appended to the CoC because the FMLE as regulator is expected to monitor compliance. Thus, the ideas stipulated in this section are expected to constantly put the actors in check given the battery of deliverables and sanctions to which PEAs are now exposed, and which the FMLE may deploy as indicators of performance as it monitors PEAs. The 2021 revision has considered, reasonably, the impact of recent labour market trends such as the Covid19 pandemic, the rise of insecurity and global migratory tendencies, the dynamics in information technology, and remote working. Notwithstanding these developments, the regulatory and sanitizing purpose of a Code of Conduct in the industry remains reasonably unchanged, as enunciated below.

PURPOSE OF THE CODE

The purpose of the Code of Conduct is to set out acceptable standards of professional practices on which Private Employment Agencies are committed and expected to operate, including the protection of children within the legal working age from exploitation. It has been conceived as an instrument to create bona fide ethical employment and recruitment agencies. The credibility and reputation of the Private Employment sector is shaped by the collective conduct of individual Private Employment Agencies. Each PEA is requested to adhere to the Code of Conduct and to promote its principles to all relevant stakeholders.

PART 1: GENERAL BACKGROUND

PRIVATE EMPLOYMENT AGENCIES (PEAs)

Private Employment Agencies are companies that are involved directly or indirectly in the recruitment, selection, placement (and in some cases, the management) of employees, skilled and unskilled for themselves and other companies. They are involved in the process of matching employees to employers and vice versa. The Private Agency concept has weathered many storms and the industry's resilience has led to the seeming boom of its activities in the 21st century. Consequently, C181 defines PEAs as *any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:*

(a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;

(b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a "user enterprise") which assigns their tasks and supervises the execution of these tasks;

(c) other services relating to job-seeking, determined by the competent authority after consulting the most representative employers' and workers' organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

For most of the twentieth century, Private Employment Agencies were considered quasi-illegal entities under international law. To prevent possible abusive practices of private agencies, they were either to be fully abolished, or tightly regulated. In most countries they are legal but regulated.

The ILO's understanding of the fair recruitment of workers, including migrant workers, has evolved with changing realities in the world of work, from a state-centric, non-profit vision in 1919 towards a vision of public-private partnership, including with for-profit private employment agencies (PEAs). Prior to the first World War, private employment agencies were very active in the labour market. The policy stance taken in 1919 was as a result of massive

abuses that workers had suffered under the PEAs at that time. This conceptual evolution reflects the historical growth of private and for-profit labour recruitment. The Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) was abrogated and signatories to this convention were encouraged to ratify C181 instead.

The International Labour Organization set up standards to regulate the practice of PEAs. These include C181, R188, C143, and C97. Other standards are the Migration for Employment Convention (Revised), 1949 (No. 97) along with its Annexes, and the Migration for Employment Recommendation (Revised), 1949 (No. 86). Both Annex I and II define, in identical terms, the notions of the recruitment, introduction and placement of migrant workers, and specify that individuals and entities can engage in these operations. The notion of recruitment is broad, and the terms of the Annexes are sufficiently flexible to allow more than one form of recruitment. In addition, the Annexes provide that the activities of PEAs should be supervised by the competent authority, and that contracts of employment should be supervised by Member States.

In Nigeria, a Recruiter's License is issued by the Federal Ministry of Labour and Productivity in accordance with the provisions of sections 23, 24, 25 and 71 of the Labour Act. These provisions of the law empower the Federal Ministry of Labour and Employment to issue a Recruiter's License to organizations it considers fit and proper to carry out the business of recruiting and supplying manpower in an outsourcing relationship with third parties. As presently obtained in Nigeria, the Federal Ministry of Labour and Employment regulates the nascent industry. The Human Capital Providers' Association of Nigeria (HUCAPAN) has the status of the only Employers' Association at the time of writing this Code, but going forward, the industry may witness the birth of other organizations.

THE CODE OF CONDUCT

This Code of Conduct sets out the principles that shall guide Private Employment Agencies. The standards in this Code of Conduct shall be observed by all those involved in the Private Employment industry in Nigeria. This principle-based approach is intended to maintain and enhance consistency, fairness, transparency, accountability, and diversity in recruitment practices.

This Code provides Private Employment Agencies with a clear and concise guide to the approach they must take to ensure a fair, open and transparent process that produces a quality outcome and tends to command public

acceptance. It is intended to contribute to the development of good practices in the field of recruitment and general human capital development.

This Code of Conduct shall provide a framework based on global best-practice employment principles. It recognizes that Private Employment Agencies require flexibility to deal efficiently and effectively with the diverse range of services that they provide. Accordingly, the Code shall enable Private Employment Agencies to adopt strategies and develop processes to implement the principles effectively. All agreements signed under this Code must also comply with relevant employment and equality legislation in Nigeria.

The Code of Conduct is also expected to promote the protection of children within the workplace and ensure that young persons in light work, and children within the legal working age, 16 years and over, are not exploited and that their fundamental rights as workers are respected.

GUIDING PRINCIPLES OF THE CODE OF CONDUCT

This Code applies the principles of transparency, fairness, and mutuality of benefits as they relate to relationships among Private Employment Agencies, prospective employees, employers, host communities, the public employment agencies and other governmental agencies. The guiding principles of this Code of Conduct are detailed as follows:

Principle 1 – Respect for Ethical and Professional Conduct

Private Employment Agencies (hereinafter referred to as PEAs) shall observe the highest principles of ethics, integrity, professional conduct and fair practice in dealing with employees and all other relevant stakeholders, and shall conduct business in a manner designed to enhance the operations, image and reputation of the industry.

Principle 2 – Respect for Laws

PEAs shall comply with all relevant legislation, statutory and non-statutory requirements and official guidance covering Private Employment Agencies in Nigeria. This principle explicitly covers the prohibition of the use of forced labour, human trafficking and child labour. The principle also extends to the prohibition of conducting business with organizations that use or are linked with forced labour, human trafficking and child labour. In order for this to be feasible, it is essential that due diligence is conducted in global value chains, and that there is conformity to due diligence legislation. Efforts must be made to ensure the existence of such legislation, where they are yet to exist.

Principle 3 – Respect for Transparency of Terms of Engagement

PEAs shall ensure that workers are given details of their working conditions, the nature of the work to be undertaken, rates of pay and pay arrangements, and working hours. This principle obligates Private Employment Agencies to inform employees of the conditions applicable to the contract of employment. PEAs shall ensure that the information is provided in a language understood by the worker, especially in the case of contracts issued to overseas-based workers. PEAs shall ensure that the worker's assent is obtained without coercion. PEAs shall, in addition, ensure that the contract for young persons in light work, and children within the legal working age, 16 years and over, is decent and complies with the Labour Act.

Principle 4 – Respect for free-of-charge provision of services to jobseekers

PEAs shall not charge directly or indirectly, in whole or in part, any fees or costs to prospective employees and workers, for the services directly related to the provision of temporary assignments or permanent placements. This provision is geared towards, *inter alia*, reducing the incidence of overseas recruitment malpractice, including for jobs abroad. In particular, C181 and the ILO General Principles and Operational Guidelines GP 7, as well as the ILO's definition on recruitment fees and related costs clearly provide that job seekers should not be charged recruitment fees.

Principle 5 – Respect for Health and Safety at Work during and after pandemics

- 5.1 PEAs shall act diligently in assessing risks related to health and safety prior to the assignment of agency workers to their workplace. PEAs shall inform agency workers, especially working children, whenever they have reason to believe that any particular assignment could cause an occupational health or safety risk, or a risk is potentially associated with the assignment.
- 5.2 PEAs shall commit to an injury-free and illness-free workplace that is operated in an environmentally sound manner in compliance with all relevant laws and regulations that protect workers' safety and the environment. PEAs shall ensure that employees perform their work-related duties during and after any pandemic, in a safe environment.
- 5.3 PEAs shall give a high priority to the safety, health, and well-being of workers, especially children, including in cases where there is a national, international, and/or global spread/risk of viruses and other health-related occurrences/risks, and subsequent contagion/risk of contagion in the workplace. Prevention and protection should be taken seriously by PEAs through the provision of necessary safety gadgets and equipment, and the adoption of appropriate sanitation measures.
- 5.4 The policy of working from home should not be abused so as to reduce

the risk of lone working, excessive workload, ergonomic issues, difficult productivity expectations, and health and safety implications to employees.

- 5.5 Regular and adequate training and enlightenment programmes for employees on the health and safety implications of viruses and diseases should be made available to employees to promote their workplace safety, as required.

Principle 6 – Respect for Diversity and Non-Discrimination

- 6.1 Private employment services shall treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of unlawful and unethical discrimination covered by national law and practice, such as age or disability.

Principle 7 – Respect for the Worker's Rights

- 7.1 PEAs shall not restrict agency workers' rights of freedom of association and collective bargaining, subject to C181.
- 7.2 PEAs shall not make workers available to a user company to replace workers of that company who are on strike.
- 7.3 PEAs shall ensure that workers are not dismissed from employment and new ones employed in order to avoid payment of pensions, gratuity and other long-service entitlements to the long-serving staff.
- 7.4 PEAs shall not require workers to provide a monetary deposit or other collateral as a condition for recruitment or employment.
- 7.5 PEAs shall ensure equitable, objective and transparent principles for the calculation of agency workers' wages, in an effort to promote a decent and living wage.
- 7.6 PEAs shall ensure that workers shall have a written contract of employment in a language that they understand, specifying their terms and conditions of employment. As a minimum requirement, these workers should be informed of their conditions of employment before the effective beginning of their assignment (R188, ILO).
- 7.7 PEAs should provide information to job seekers and workers about the trade union status of the client organization.
- 7.8 No agency or recruiter shall allow itself to be used to perpetuate enslavement in employment, including child labour and its worst forms.
- 7.9 PEAs shall ensure that their outsourced employees participate in the contributory pension scheme and health insurance scheme to promote and ensure universal coverage of social security.
- 7.10 PEAs shall ensure that deductions made from the remuneration of employees such as pension contributions, union check-off dues, PAYE tax, etc., are remitted to the appropriate body regularly.

- 7.11 PEAs shall include the impact of pandemics on employment in the items for collective bargaining, thus making occupational safety and health an issue for collective bargaining.
- 7.12 Job seekers and workers shall have a right to appeal first to the association of the PEAs, if they have been badly treated or their rights violated within Nigeria and shall have the right to seek judicial remedy.
- 7.13 Job seekers and workers shall first explore the internal grievance mechanism for conflict resolution, and thereafter have a right to appeal to the FMLE if they have been badly treated or their rights violated within Nigeria and shall have the right to seek judicial remedy.
- 7.14 Nigerian citizens working abroad shall have a right to appeal to the competent authorities in the country of residence if they have been badly treated or their rights violated outside of Nigeria.
- 7.15 PEAs shall ensure that only children of a legal working age (16 years and above) are employed, as stipulated by the Government of the Federal Republic of Nigeria.
- 7.16 PEAs shall ensure that children of a legal working age are not exploited or engaged in hazardous work.
- 7.17 PEAs shall ensure that they do not engage in or support child labour practices.

Principle 8 – Respect for Confidentiality

- 8.1 PEAs shall ensure data privacy and protection in all of their dealings (C181). They shall ensure that permission has been obtained before disclosing, displaying, or submitting employment-related information to third parties. They shall ensure that consent has been given and documented before disclosing, displaying, submitting, or seeking confidential or personal information.
- 8.1 Agencies and their staff shall ensure that permission has been given and documented before disclosing, displaying, submitting, or seeking confidential or personal information in print or electronic form.
- 8.3 Agencies are not allowed to disclose any classified or exclusive information to anybody without authorization. Agencies which have access to, or are in control of such information should at all times provide adequate safeguards to prevent its abuse or misuse.

Principle 9 – Respect for Professional Knowledge and Quality of Service

- 9.1 PEAs and their clients shall ensure that their staff are adequately trained and skilled to undertake their responsibilities and ensure a high-quality service.
- 9.2 Agencies shall possess and demonstrate satisfactory and up-to-date

levels of relevant professional knowledge in their service delivery to clients.

- 9.3 PEAAs shall attend the annual workshop of PEAAs organized by FMLE to strengthen their competencies, especially in the area of promoting decent work.

Principle 10 – Respect for Fair Competition

PEAAs shall ensure mutual relations among each respective company, based on fair competition.

Principle 11: Social Dialogue and Dispute Resolution

- 11.1 PEAAs shall promote social dialogue and collective relations as appropriate means to organize the Private Employment Agency industry.
- 11.2 PEAAs shall promote social dialogue as a means of ensuring industrial harmony in the workplace.
- 11.3 PEAAs shall support collective bargaining between clients and clients' employees.
- 11.4 PEAAs shall take all appropriate measures to ensure that workers have access to dispute resolution, as provided by law, and to credible grievance mechanisms, without fear of recrimination or discrimination.

Principle 12: Commitment to Professional Development

PEAAs shall ensure that they are well-informed about recruitment practices and national and international best practices and guidance, and that they continually seek to improve their knowledge and skills.

Principle 13: Harassment or Abuse

PEAAs shall ensure that every worker is treated with respect and dignity. No worker shall be subject to any physical, sexual, psychological, or verbal harassment or abuse.

PART 2: RESPONSIBILITIES OF PRIVATE EMPLOYMENT AGENCIES TO STAKEHOLDERS

Organizations operating in the Private Employment Industry shall, in accordance with C181, R188, C143, and C97, make conscientious efforts to maintain decent and respectable relationships with stakeholders. These relationships shall be guided by the following standards, which are not exhaustive:

GOVERNING STANDARDS

Standard 1: Respect for Work Relationships

- 1.1 In order to establish trust and build productive work relationships, Private Employment Agencies shall exercise care and due diligence with all stakeholders.
- 1.2 In their relations with clients and job seekers, Private Employment Agencies shall observe high standards of accuracy in the information and advice that they give, as well as in their timeliness, thus avoiding deception.
- 1.3 Private Employment Agencies shall apply an ethical and professional approach to customer service standards at all times.
- 1.4 Private Employment Agencies shall treat all PEA members with respect and aim to work in a fair and open competitive environment in line with the national policy (ServiCom).

Standard 2: Respect for Honesty and Transparency

- 2.1 PEAs shall act at all times with integrity and honesty, and adhere to ethical standards.
- 2.2 PEAs shall not engage in any activity which would bring the private employment industry, the Human Capital Providers' Association of Nigeria (HuCaPAN), other PEAUBs, Nigeria Employers' Consultative Association (NECA), the Federal Ministry of Labour and Employment, or the Nation into disrepute.

Standard 3: Respect for Confidentiality and Privacy

- 3.1 PEAs shall observe and respect the confidentiality of clients and prospective employees and ensure that this is maintained at all times.

- 3.2 PEsAs shall ensure that they know what steps to take in order to ensure that this is maintained at all times.

Standard 4: Respect for Laws

- 4.1 PEsAs shall comply with all relevant legislation, statutory and non-statutory codes, international best standards/practices and official guidance that will impact on their role in recruitment and outsourcing.
- 4.2 PEsAs shall ensure that they know what steps to take in order to ensure compliance with relevant legislation applicable to an employment agency, child labour, migrant labour, human trafficking, unanticipated pandemics such as Covid19, and other relevant legislation.
- 4.3 PEsAs shall advise and where necessary guide clients on legislation relating to expatriates' quota, immigration and other salient issues directly or indirectly relating to the industry.
- 4.4 PEsAs shall not support or engage in any activity aimed at organizing illicit and clandestine trafficking in persons in accordance with Convention 143 and Convention 181 which regard these bad practices as unfair labour practices. C29 and its 2014 protocol also applies here.
- 4.5 PEsAs shall not support or engage in any activity aimed at exploiting children or engaging them in illicit activities such as the worst forms of child labour, in accordance with ILO Convention 138 on Minimum Age for Employment, and C182 on the worst forms of child labour.

Standard 5: Respect for Diversity and Affirmative Action

- 5.1 PEsAs shall ensure that they treat all clients and prospective employees with dignity and respect, and aim to provide employment opportunities based on objective business- and competency-related criteria.
- 5.2 PEsAs shall always promote fair recruitment practices without prejudice to religion, tribe, place of birth, colour of skin, or gender.
- 5.3 In the placement of job vacancies, PEsAs shall ensure that the job is available and that the advert is not just for the purpose of keeping a database.
- 5.4 PEsAs shall not act on an instruction from a client that may be discriminatory and, where desirable, shall provide guidance to clients in respect of good diversity practice.
- 5.5 PEsAs shall give consideration to young refugees in employment opportunities, provided it does not jeopardize the opportunities of young indigenes that are unemployed.
- 5.6 PEsAs shall comply with the principles of Convention 181 that enhance equal opportunity for all players within the appropriate economic and legal environment.

Standard 6: Commitment to Professional Development

- 6.1 PEAs shall ensure that they are well-informed about recruitment practices and that they continually seek to improve their knowledge, skills and qualification base, in accordance with Principle 12.
- 6.2 PEAs shall use their association, professional institutions or other agencies to improve their professionalism.

2.1 DUTIES TO CLIENTS (HIRING COMPANIES)

- 2.10 On initial contact with a client, PEAs shall provide clear and accurate information about the services they may provide, including, but not limited to, clear written terms of business; policies regarding the checking of references, qualifications, and service fees; and, obtaining criminal records where relevant. This should be applicable in all situations.
- 2.11 PEAs shall submit or transmit details of prospective employees to clients only in respect of registered vacancies or fields of potential interest.
- 2.12 Where the PEA has previously received a fee for placing a prospective employee with their current client, the PEA shall not approach the prospective employee to offer work-seeking services with a view to placing the prospective employee elsewhere, unless the current client has been duly informed.
- 2.13 PEAs shall treat information from clients with confidentiality. Disclosure of information or data identifying a client either explicitly or implicitly shall be restricted to those involved in or an integral part of the recruitment process, and any government agency that may require such information. However, this shall not be applicable in cases where the client has given express permission/instruction that their identity can be revealed to the prospective employees during the course of the employment process.
- 2.14 PEAs shall confirm how the workers' terms of employment or employee handbook will be transmitted, e.g. whether by post, fax or email and should maintain a record of how such information has been transmitted to each client.
- 2.15 PEAs shall transmit details of job seekers to hirers only in respect of registered vacancies or fields of potential interest.
- 2.16 PEAs shall take up references as appropriate on temporary or contract workers before presenting them to hirers for assignment. If for exceptional reasons, referees have not been contacted, the hirer must be informed.
- 2.17 PEAs shall only submit to a hirer details of those candidates who have agreed that their details may be passed on to that hirer.

- 2.18 *If a member has received a fee from the employer for placing a job seeker and the worker approaches the member during the rebate period to ask for alternative employment, then the following will apply:*
- i) if the job seeker is offered alternative employment by the member and accepts it within the rebate period, then the rebate shall be payable from the date of accepting the new offer of employment;
 - ii) if the job seeker has requested alternative employment during the rebate period, but none is found during the rebate period and the job seeker remains in the original employment, then no rebate shall be payable.

2.2 DUTIES TO PROSPECTIVE EMPLOYEES

- 2.21 PEAs shall at all times observe the duty of confidentiality to the prospective employee while providing work-seeking services to the prospective employee.
- 2.22 Upon registration of a prospective employee, PEAs shall provide clear and accurate information about the services they may provide, including but not limited to clear and accurate written terms for employees, which state unequivocally the type of contract on which the employee is engaged, and any services provided for which payment may be charged.
- 2.23 PEAs shall ensure that they obtain from clients all relevant information relating to the position in question, terms and conditions of work relative to similar workers employed by the client, including health and safety information, and that all such information is made available to the prospective employer.
- 2.24 PEAs shall pay employees promptly and in accordance with the PEA's contract of employment with the employee. In the event of any unavoidable delay in payment, the employee should be informed immediately about the reason for the delay, steps to be taken to resolve late payment, and the likely timescale for resolving the reason for late payment, in accordance with best practices.
- 2.25 PEAs shall not impose a restriction on any employee that they have previously engaged from obtaining work elsewhere, by withholding or refusing to provide any information reasonably requested by another employment business in respect of that employee.
- 2.26 Where possible, PEAs shall keep registered prospective employees informed of their progress in seeking to find work for them and of any application for work being pursued on their behalf.

- 2.27 PEAs shall ensure that deductions made from employees' remuneration such as pension contribution, PAYE tax, etc. are remitted to the appropriate body within the statutorily designated period.
- 2.28 PEAs shall ensure that they obtain from hirers all relevant information relating to the position in question.
- 2.29 PEAs shall inform temporary or contract workers, in writing, and before an assignment commences about details of the process through which the agency fees will be paid by the hirer.
- 2.30 PEAs shall not withhold or refuse to provide any information reasonably requested by another employment business in respect of a temporary or long-term contract.
- 2.31 PEAs shall agree, with job seekers, on the procedure for submitting their details to hirers.
- 2.32 PEAs shall treat information about job seekers confidentially.
- 2.33 PEAs shall keep registered job seekers informed of their progress in seeking to find work for them.
- 2.34 PEAs shall do due diligence to return the telephone calls, emails and other correspondence of hirers and registered job seekers.
- 2.35 PEAs shall agree with job seekers at what stage references will be taken up and how they will be used.
- 2.36 Where a job seeker's current or most recent employer is not named as a referee, PEAs must obtain express permission before contacting the employer for a reference. Information obtained through a reference must be treated as confidential in the recruitment process.
- 2.37 PEAs shall address diligently all challenges or difficulties in obtaining work permits for migrant workers for employment in Nigeria, unreliable electricity supply, internet connection, and a lack of access to suitable hardware and software towards the promotion of decent work and living conditions for migrant workers.
- 2.38 PEAs shall address diligently all challenges or difficulties in securing travel visas, and transporting Nigerians being recruited to work abroad, towards the promotion of decent work and living conditions for workers moving abroad.
- 2.39 Any selection test used, including psychometric and personality questionnaires, shall be relevant, properly validated and where appropriate conducted by trained or licensed personnel.
- 2.40 The grievance procedure should be communicated to all staff. Job seekers and hirers must follow the prescribed procedure when dealing with complaints brought against the PEAs.

PART 3: RECRUITING FROM OVERSEAS FOR WORK INSIDE NIGERIA

- 3.1 PEAs shall not engage in overseas recruitment without having secured the License to do so from the Federal Ministry of Labour and Employment.
- 3.2 PEAs recruiting prospective employees from outside of Nigeria for placement within Nigeria shall ensure that such prospective employees are provided with adequate documented information about the employment for which they are being considered. This shall include, but is not limited to, notice periods, hours and location of work, the likely cost of living in the area of Nigeria in which the client is situated, the likely duration of the job in question, and the state of the labour market into which they will be immersed.
- 3.3 PEAs shall clearly state the relevant employment terms and conditions that shall apply between the PEA, the prospective employees and the client.
- 3.4 In order to enable the prospective incoming migrant employees to make an informed decision as to whether it is in their long-term interests to accept a position with a hirer, PEAs shall provide all documented information as well as the recruitment service at no cost to the prospective incoming migrant employee.
- 3.5 PEAs recruiting prospective employees from outside of Nigeria shall not use overseas agents in circumstances where such agents charge overseas prospective employees for their recruitment services unless this is legal and a normal custom and practice sanctioned by the government in the country of origin. PEAs shall make all reasonable efforts to ascertain whether such agents charge prospective employees for their recruitment services.
- 3.6 PEAs shall make a conscientious effort to ascertain the immigration status of the prospective employees and advise appropriately on the steps to regularize such status if they are short of legal requirements.
- 3.7 PEAs recruiting job seekers from outside of Nigeria for placement within Nigeria shall ensure that such job seekers are provided with adequate information about the hirer for whom they are being recruited.
- 3.8 PEAs shall state clearly the rate of pay and other relevant employment terms that will apply between them and the hirer.
- 3.9 PEAs shall provide all information at no cost to the job seeker.

- 3.10 PEAs shall inform migrant workers, as far as possible in their language or in a language with which they are familiar, of the nature of the position offered and the applicable terms and conditions of employment (R188).
- 3.11 PEAs shall make migrant workers sign an undertaking for good conduct and adherence to the existing laws, or face deportation.
- 3.12 PEAs shall not engage in overseas recruitment without having the required bond and other legal requirements, as stipulated by the Federal Ministry of Labour and Employment (FMLE).
- 3.13 PEAs shall make available regular and adequate training and enlightenment programmes to the employees on the implications of pandemics and associated challenges before, during and after their migratory movement.

PART 4: RECRUITMENT FOR WORK OUTSIDE NIGERIA

- 4.1 PEAs shall not engage in overseas recruitment without having the required bond and other legal requirements as stipulated by the Federal Ministry of Labour and Employment. The bond is without prejudice to the requirements of other governmental agencies responsible for curtailing human trafficking, irregular migration and child labour.
- 4.2 PEAs employing prospective employees from Nigeria for job placements overseas shall ensure that such prospective employees are provided with adequate documented information about the employment for which they are being considered.
- 4.3 PEAs shall clearly state the relevant terms and conditions of employment to employees in a language understood by the worker. This may include notice periods, hours and location of work, the likely cost of living in the area overseas in which the client is situated, the likely duration of the job in question and the state of the employment market, and the socio-economic, legal and climatic conditions into which they may find themselves.
- 4.4 In order to enable the prospective employees to make an informed decision as to whether it is in their long-term interests to accept a position with a foreign client, PEAs shall provide all documented information (and the recruitment and placement service) at no cost to the prospective employees, excepting the cost of documentation, passports, confirmation of skills, and training.
- 4.5 PEAs employing prospective employees from Nigeria for overseas clients shall not use overseas agents in circumstances where such agents will charge extra costs to prospective employees from Nigeria.
- 4.6 PEAs shall make a conscientious effort to assist prospective emigrating employees in updating their immigration status and giving appropriate advice on the steps to regularize such status if they are short of overseas-based legal requirements.
- 4.7 PEAs shall endeavour to use only legal and safe means of transportation for sending prospective employees overseas. Such means shall not directly or indirectly cause mental, physical or emotional strain on the prospective employees.
- 4.8 PEAs shall endeavour to coordinate with foreign partners and Nigerian representative agencies in the country of employment to

- protect the legitimate rights and benefits of migrant workers.
- 4.9 PEAs shall exercise due diligence on the employer with whom they are placing the worker, in assessing hazards, risks, abuse, exploitation or discrimination of all kinds in the workplaces to which PEAs intend to send prospective employees. Where hazards and risks are identified, it is the obligation of PEAs to inform prospective employees of such hazards and risks.
 - 4.10 PEAs shall not retain identification documents of prospective employees such as passports, work permits, licenses, etc. and other personal belongings such as cell phones and medication with the purpose of forcing them to work for the client. At all times, all documents belonging to prospective employees must be returned to employees.
 - 4.11 PEAs shall make conscientious efforts to expose and stop all forms of modern-day slavery, forced labour, trafficking, child labour, etc.
 - 4.12 PEAs shall invest in the training of prospective migrants to ensure a proper fit for the jobs abroad for which they are recruited.

PART 5: BREACH OF THE CODE OF CONDUCT

- 5.1 Breach of this Code of Conduct shall include all actions and inactions, expressed or implied, that are contrary to the spirit and letter of all parts of this Code
- 5.2 Where a PEA is a member of an association, any breach or alleged breach of the Code shall first be investigated by that association.
- 5.3 Notwithstanding the findings of a PEA organization, the PEA in breach may be subject to a separate investigation by the Federal Ministry of Labour and Employment.
- 5.4 Breach of any part of this Code of Conduct relating, but not limited to kidnapping, forced labour, trafficking etc., after due investigation by the FMLE shall be forwarded to such governmental agencies responsible, for further investigation and action.
- 5.5 PEA organizations shall cooperate with the Federal Ministry of Labour and Employment as well as provide necessary assistance that may be required of them by the Ministry in the course of its investigation of member(s) of the PEA organizations.
- 5.6 All established activities relating to child labour, forced labour or human trafficking directly or indirectly connected to any PEA shall be visited with a maximum sanction, not limited to a withdrawal of license. Any concealment of such acts by any PEA or PEAs shall be viewed as conspiracy and the same penalty shall apply.
- 5.7 The principle of fair hearing shall be a guiding principle in the investigation of all alleged breaches of this Code of Conduct.

PART 6: DISCIPLINARY PROCEDURES

- 6.1 Alleged breaches of any part of this Code, when discovered, shall be investigated as indicated in Paragraphs 5.2 and 5.3.
- 6.2 Any such breach or breaches with reference to 5.3 shall be investigated without fear, favour or bias due to ethnicity, race, colour or other defining criteria.
- 6.3 The alleged PEA shall be given the opportunity to defend itself against all allegations of breach of this Code of Conduct.
- 6.4 PEAs that are not satisfied with the outcome of the investigation could appeal such outcomes, stating the grounds of appeal. Such appeal(s) would be addressed by a separate body, distinct from the investigating body.
- 6.5 The decision or outcome of any investigation of breach of this Code under 5.2 shall be adopted by a simple majority of members of the Association of PEAs (not executive body) so concerned before such outcome could be acted upon or such outcome sent to the Federal Ministry of Labour and Employment for further action.
- 6.6 In advising the Federal Ministry of Labour and Employment of its investigations and outcome, the Association of PEAs shall provide the Ministry with all relevant documents pertaining to the investigation, including the appeal by the alleged PEA.
- 6.7 Without prejudice to the sanctions that could be imposed by the Federal Ministry of Labour and Employment, the Association of PEAs, using its internal machineries, could impose fines or give warnings as would be agreed by its members to PEAs within its fold.
- 6.8 The Federal Ministry of Labour and Employment may investigate all alleged breaches discovered, or reported by another PEA, giving the alleged PEA the opportunity of a fair hearing.
- 6.9 Where a provision in this Code is less stringent than that of other guidelines of the Federal Ministry of Labour and Employment, the relevant provision of the Ministry's guidelines or Policy shall apply.
- 6.10 The Federal Ministry of Labour and Employment shall exercise authority on all alleged breaches investigated by it or any other body designated or appointed by it.

PART 7: SANCTIONS FOR BREACH OF THE CODE OF CONDUCT

- 7.1 All breach(es) of this Code of Conduct shall be thoroughly investigated before sanctions are imposed.
- 7.2 Investigated breach(es) that are proven beyond all reasonable doubt shall attract sanctions from the FMLE, ranging from a warning, suspension of license, withdrawal of license, blacklisting or outright prosecution in a court of law.
- 7.3 Investigated PEAs are at liberty to exercise their fundamental human rights by providing defences for all or any allegation and they also have the right of appeal.
- 7.4 All investigated breach(es) proven beyond all reasonable doubt and which are outside the jurisdiction of the Federal Ministry of Labour and Employment such as kidnapping, forced labour, illegal migration or human trafficking shall be forwarded to such governmental agencies responsible for such offences. The sanctions relating to such offences shall apply.
- 7.5 Disciplinary sanctions shall include withdrawal of license, fines, and imprisonment, all subject to appeal.

APPENDIX

ROLE OF THE FMLE

The Federal Ministry of Labour and Employment has an oversight role in the supervision of all public and private agencies operating in Nigeria's labour market. It plays this role in several capacities such as in labour administration, social dialogue, and conflict resolution. To enable the FMLE to play its role creditably in the private employment industry, a number of good practices are included in this Code for the information and necessary action of all the players in the private employment industry. This is notwithstanding, but complimenting, other provisions in the extant national industrial relations policy, wages policy or employment policy of the Federal Government of Nigeria (FGN).

- 8.1 The Federal Government should ratify and domesticate and otherwise implement Convention 143 and 181 in order to enhance the protection of the rights of migrant workers in various areas of employment, as well as monitor and respond to any exploitation and enslavement occurring in private firms where immigrants are working.
- 8.2 The Federal Government should ratify and domesticate and otherwise implement Convention 189 to ensure decent work for domestic workers, including child domestic workers of working age, and migrant domestic workers.
- 8.2 To provide an enabling environment for the protection of migrant workers, the FGN shall seek and maintain bilateral and/or multilateral agreements where migration involves two countries, following Article 8(2) of C181 & GCM Objective 23.
- 8.3 The FMLE shall keep and maintain a list of registered private employment agencies in Nigeria.
- 8.4 The FMLE shall encourage adherence to, and support the compliance of PEA members with this Code of Conduct.
- 8.5 The FMLE shall, in conjunction with the association of PEAs, ensure adequate capacity-building for PEAs in an effort to strengthen them for good service delivery to all stakeholders.
- 8.6 The FMLE shall ensure that adequate machinery and procedures, involving as appropriate the most representative employers' and workers' organizations, exist for the investigation of complaints, alleged abuses, and fraudulent practices concerning the activities of private employment agencies (C181, Article 10).
- 8.7 The FMLE, following national law and practice, shall take the necessary measures to ensure adequate protection for the workers

employed by private employment agencies as described in Article 1, paragraph 1(b) of C181, in relation to:

- (a) freedom of association
 - (b) collective bargaining
 - (c) minimum wages
 - (d) working time and other working conditions
 - (e) statutory social security benefits
 - (f) access to training
 - (g) occupational safety and health
 - (h) compensation in case of occupational accidents or diseases (This will be in collaboration with the Nigeria Social Insurance Trust Fund (NSITF), or taken over from NSITF.)
 - (i) compensation in case of insolvency and protection of workers claims
 - (j) maternity protection and benefits, and parental protection and benefits
- (Article 11 (C181))

- 8.8 The FMLE shall strive to promote a relationship between public employment agencies and private employment agencies.
- 8.9 The FMLE shall strengthen its labour administration framework and suitably equip its personnel to obtain periodic monitoring reports from PEAs (C181). The delivery of monitoring reports, when requested, shall be a requirement for PEAs. The Department of Employment & Wages shall synergize with the Labour Inspectorate Division of the FMLE to have proper monitoring and record-keeping of the activities of PEAs.

THE MONITORING AND EVALUATION SYSTEM FOR PRIVATE EMPLOYMENT AGENCIES IN NIGERIA

PART 1. INFORMATION AND DATA INFORMING THE MONITORING AND EVALUATION OF EACH PEA

Figure 1 illustrates the categories of information which are being sought for the typical monitoring and evaluation of the level of compliance with the CoC by each PEA.

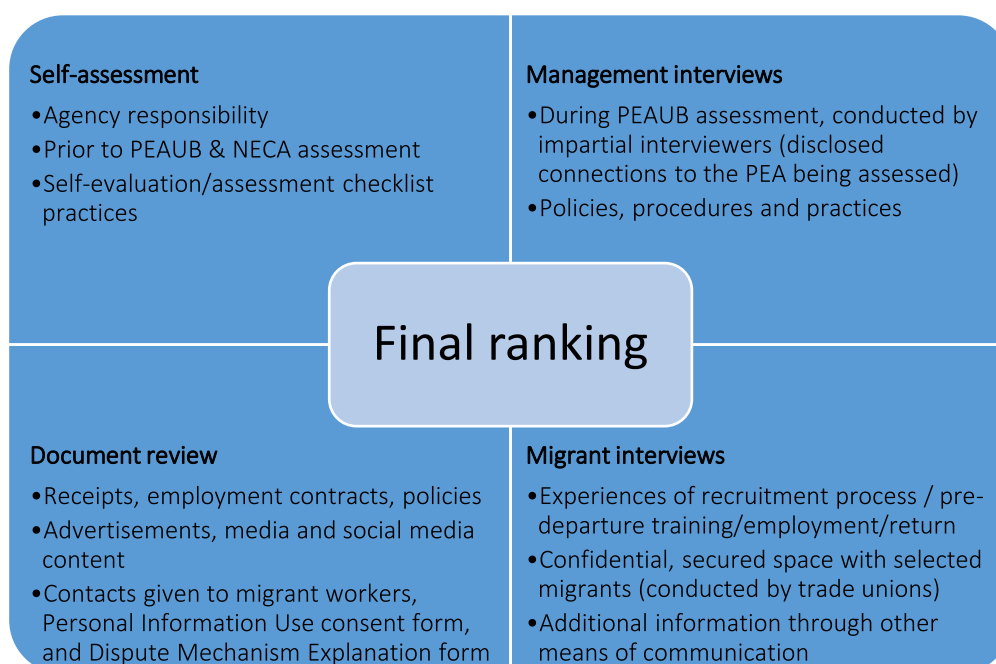


Figure 1: Information to include in the compliance analysis.

- **Self-assessments** → They present an opportunity for each employment agency to conduct a self-evaluation of their business conducts and their current status of compliance with the PEA CoC. Performed well, it can inform the management of the employment agency of potential non-compliance, and areas where they need to focus more resources to ensure compliance. The self-assessment is conducted and submitted to the PEA Umbrella Body prior to the monitoring visit and management interviews and informs assessors about areas to look at more closely.
- **Management interviews** → Information is collected from the senior management of each employment agency. The interviews usually concern and assess management commitment, company policies, procedures, and other practices of the agency. If deemed necessary by the assessors, this source can include interviews with other relevant agency staff including those delivering pre-departure orientation, those recruiting and selecting workers, and those monitoring conditions in the destination country. Questions could be asked regarding more specific policies and procedures and how these are implemented in daily practice.

- **Document review** → The PEA would need to collect and share documentation in advance which was collected internally from various departments or units, and should be prepared to share and discuss it during the assessment. Normally, the document review includes observing and evaluating various records, such as receipts, contracts, procedures, and policies, to confirm that management processes are in place, that they are maintained over time, and that they are effective. Randomly selected migrant worker case files will be requested by the assessors and will be dealt with according to the principles of confidentiality. The document review could also involve looking at the business practices and other procedures to confirm that these are defined in agency documents and communicated to agency contractors, sub-contractors (if any), agency partners in destination country (if any), and employers. Agreements for fulfilling job orders from international partners should also be viewed.
- **Migrant interviews** → It is vital to ask migrant workers about their experiences of the PEA procedures, both during their time abroad and (preferably) after they return. Migrant workers will be able to confirm or deny information coming from the management interviews and document reviews, creating the necessary triangulation for a transparent and verifiable assessment procedure. However, it is of utmost importance to consider the safety and confidentiality of workers. Interviews must therefore be conducted in an environment and by assessors that can ensure confidentiality of the information provided, anonymize any interview records, and protect migrant workers and their families from the threat of any intimidation or retaliation. Furthermore, assessors must be backed by supporting systems that enable such a result.

Information from other sources

Other sources can and should be used by assessors while conducting the assessment. These may be provided during the management or migrant interviews and/or could be collected independently or submitted to the assessors by stakeholders, including government representatives, workers' organizations, civil society members, and the family members of migrant workers. Print and news media, advertisements, social media content, court records, pre-departure training curricula and records are all examples that should be sought by assessors. All sources used will be listed and provided to the employment agency at the conclusion of the assessment.

PART II. ASSESSMENT PROCESS

Assessment process cycle:

1. **Preparation** – Agency checks that policies and procedures are in order, records and lists are up-to-date, and that receipts and standard contracts are available. Material is compiled in a structured way and easy to review. PEA Umbrella Body (PEAUB) sends out notification approximately two months prior to the assessment visit.
2. **Self-assessment** – Gives the agency an opportunity to evaluate their compliance internally, in accordance with the Code of Conduct. It also provides an opportunity to ensure that they have all the necessary material, that staff are properly trained, etc. The self-assessment and all supporting documents should be submitted to PEAUB two weeks prior to their assessment, which will ensure that the self-assessment can inform PEAUB’s assessment.

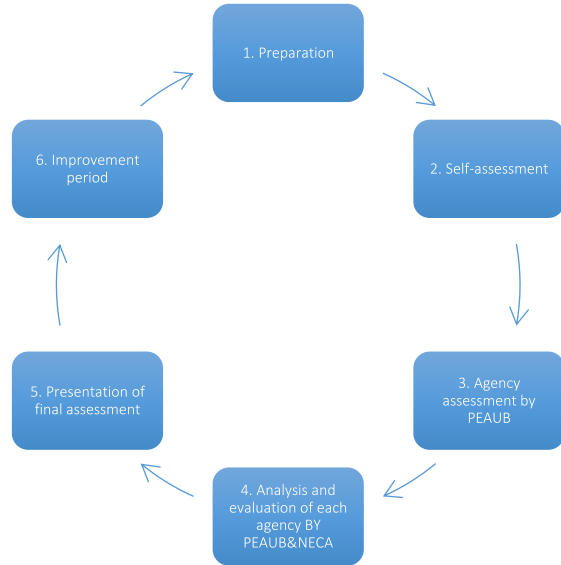


Figure 2: Assessment Process Cycle

3. **Agency assessment by the PEAUB Assessment Panel** – The opening meeting should include a general presentation by the agency on their self-assessment. PEAUB assessors then conduct interviews with management on internal agency procedures. This process also involves the collection of relevant documents, licenses, policies, contracts, and other records (See below for suggested one-day agenda for PEAUB assessment.).

Table 1: Agenda for PEA assessment day

Time	Activity
8.30-9.00	Opening meeting and general presentation by agency
9.00-11.00	Management interview <ul style="list-style-type: none"> - Discussion about internal agency procedures and how they are implemented - Document collection and review - Licenses / Policies / Records /staff assessments / migrant worker files Interviews with selected staff
11.00-12.30	Inspection of agency facilities <ul style="list-style-type: none"> - Offices, filing and data retention systems. - Training and any accommodation facilities
12.30-13.00	Wrap-up and closing meeting <ul style="list-style-type: none"> - Quick dissemination of immediate key findings and impressions from the assessment

At a separate location

- 2.30-16.00 Migrant worker interviews (gender balance of those interviewed to be ensured)
- Discussion about the recruitment process and fee and cost structure
 - Check knowledge on contracts and other documents
 - Individual papers, visa and work permits
 - Training curricula and pre-departure orientation, including gender-responsiveness for women migrant workers
 - Identity documents, termination of contracts, return procedures, complaint processes, etc.

Note that inspections of branch offices or of trainings in progress may also be requested/required by assessors and that separate arrangements will need to be made for those site visits.

4. **Analysis, triangulation, and evaluation** – Following the collection of all relevant information for each recruitment agency, the PEAUB Assessment Panel should triangulate the data, analyze the findings, and provide scores according to each of the indicators in the monitoring tool (one by one), deciding if the agency is in compliance with each specific indicator or not. Where disagreement on the indicator score is encountered, it should be noted on the spreadsheet for transparency, alongside recommendations for corrective actions. The final score sheet, with recommendations for corrective actions, will be provided to the agency and shared publicly on the PEAUB website.

The final score is the sum of all indicators together, which will also make up the final assessment. The final score should be compiled according to the total number of points received, also reflecting whether or not all indicators are in compliance (See Figure 3 below for process flow of analysis, triangulation, and ranking.).

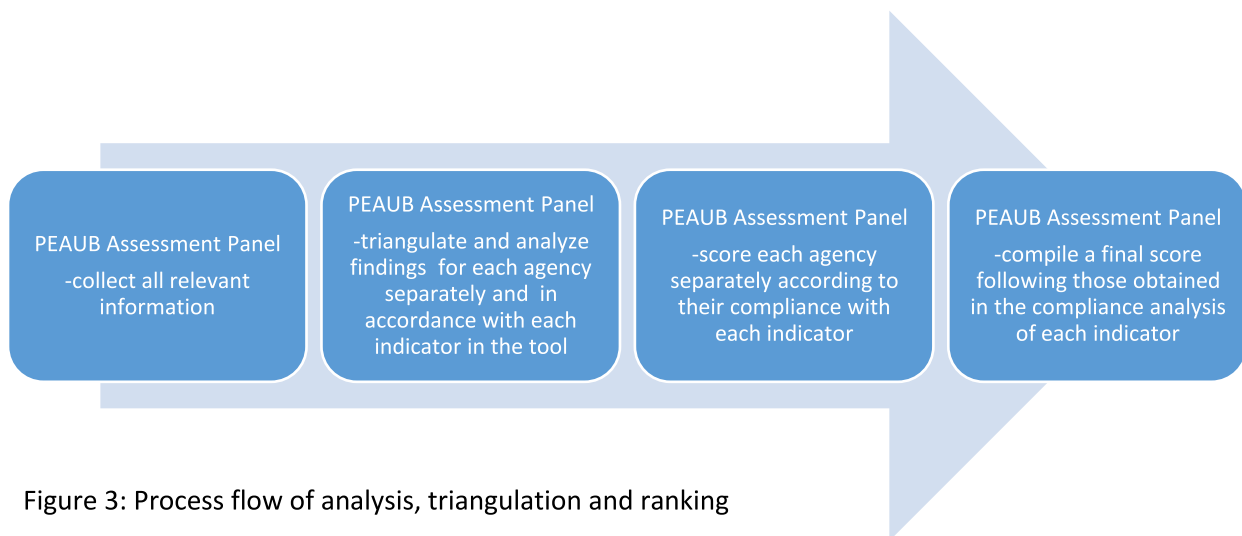


Figure 3: Process flow of analysis, triangulation and ranking

5. **Presentation of assessment and announcement procedure** – The scores given to each agency are dependent on each agency’s compliance with the 13 Principles in the PEA Code of Conduct, as described above. The presentation and announcement of the final assessments could either be done continuously for each agency, or in an annual event. Final assessments should then also be announced on relevant entities’ websites to make the information available to prospective migrant workers and employers from destination countries. Distribution channels for information should therefore include the following:
- PEAUB website
 - FMLE website
 - Mass media
 - Trade Groups, Trade Unions
 - NECA
6. **Improvement period** – For agencies that are not fully in compliance with the CoC, the assessment team will compile a list of recommendations for improvement. Respective agencies would then be given time to implement these recommendations prior to the next round of monitoring and ranking.

PART III. ASSESSMENT REVIEW PANEL

Functions and organization of the Assessment Review Panel

1. The Assessment Review Panel on Monitoring and Evaluation of CoC will be established by the PEAUB and NECA. Its functions are to provide guidance and monitor and evaluate compliance and scoring on the implementation of the CoC by private employment agencies, by receiving the reports of the PEAUB Panels and assuring their quality.
2. The Assessment Review Panel consists of members from the PEAUB & NECA executive board and supervisory board respectively, representatives from FMLE, trade unions, the ILO, and civil society representatives. Assessment Review Panels will be comprised of roughly equal numbers of women and men.
3. The Assessment Review Panel has a Chair, a deputy Chair and members, as stipulated in point 2 mentioned above. An uneven number of members will ensure that any deadlocks are broken, with the Chair providing the decisive vote. The Assessment Review Panel Chair shall be provided by NECA, and the Deputy Chair shall be provided by the PEAUB.

Specific duties of the Assessment Review Panel

1. To collect and verify information collected from workers, local government officials, local authorities, labour officials, civil society members, private employment agencies and mass media on the compliance of employment agencies with the PEA Code of Conduct 2021.
2. To collect and synthesize information on the results provided by the Labour Inspectorate of the FMLE on compliance with laws of the private employment agencies.
3. To monitor and verify on-the-spot, during assessments, the basis of each agency's compliance reports, and triangulate with available information to evaluate, score, and rank each private recruitment agency.
4. Each employment agency shall be notified, by the Assessment Review Panel, of that agency's assessment results and shall provide any information and their feedback on the grading results to the Assessment Review Panel within 30 days. Further reasons for assessment scores can be requested by the agency in writing within 30 days of receiving the assessment. After 30 days have elapsed from sending the notice to the agency and no reasons were requested, the results of the monitoring and evaluation will be published on the websites of the PEAUB and the FMLE, and sent to mass media entities. After 2 rounds of requests are sought and reasons provided, any further disagreement on the content of the assessment will be referred to the FMLE for determination. The FMLE may order publication or reassessment, with ministerial oversight.
5. The assessment of PEAs' CoC implementation is conducted annually by the CoC-FMLE Monitoring Panel.

Operating regulation of the Assessment Review Panel

1. The Assessment Review Panel works in a collective manner; the Review Panel shall meet annually to consider matters affiliated with its duties and rights defined in Part II above. For matters not necessarily discussed at the regular meeting, the Review Panel's Chair shall send a written request for comments to each member of the Review Panel. The Review Panel may hold unexpected or extraordinary meetings on request from its Chair or the PEAUB Chair, or at the proposal of more than 50 per cent of Review Panel members.
2. The Review Panel's Chair (or Deputy as duly authorized by the Chair) is responsible for convening and presiding over meetings of the Review Panel. Contents and materials of the meeting must be sent to its members at least 3 working days before the meeting. The Review Panel's members are responsible for studying and preparing to contribute and participate in the monitoring and evaluation process by scoring each private employment agency.
3. A Review Panel's meeting and an assessment is considered valid when at least two-thirds of its members participate. The Review Panel's assessment conclusion must be approved by a simple majority. Absent members are consulted in writing; if the number of agreeing members is equal with the number of disagreeing members, the decision shall be made by the Review Panel's Chair.
4. The Review Panel's members are provided with sufficient information, documents, and materials on the contents of each recruitment agency's assessment in a fair and objective manner. The Review Panel's standing members are responsible for timely, sufficiently, and accurately providing this information, documents, and materials at the request of the Review Panel's members.
5. On an annual basis, the CoC Assessment Review Panel reports the results of its activities to the PEAUB and NECA Chairman and agrees on the contents and programmes of the following year regarding the grading of employment agencies.
6. The basic operating budget of the Assessment Review Panel is guaranteed by PEAUB and NECA. Contributions to the costs of assessments may be supported by a range of funding partners, including the ILO and potentially other UN agencies or donors.



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