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Part 1

About This Guide

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Objectives of the Guide

This Guide applies the [UN Guiding Principles on Business and Human Rights](#) (“Guiding Principles”) to the specific context of employment and recruitment (“E&R”) agencies. Recognising that each company is different, it is intended to help E&R agencies “translate” respect for human rights into their own systems and company cultures. It summarises what the Guiding Principles expect, offers a range of ideas and examples for how to put them into practice, and links the user to additional resources that can support their work. It does not propose a set management system but rather leaves companies the flexibility they need to implement the Guiding Principles in their own particular circumstances. The Guide’s various sections can be referred to as and when needed during the on-going process of implementation. The Guide is not intended to be legally binding.

The Guiding Principles were unanimously endorsed by the UN Human Rights Council in 2011 and are now the authoritative global reference point on business and human rights. They are based on the three pillars of the [UN “Protect, Respect and Remedy” Framework](#), which recognise the complementary but distinct roles of states and business in protecting and respecting human rights. The three pillars are:

- ▶ The **state duty to protect** against human rights abuses by third parties, including businesses, through effective policies, legislation, regulations and adjudication;
- ▶ The **corporate responsibility to respect** human rights, meaning that companies should avoid infringing on the rights of others and address negative impacts with which they are involved; and
- ▶ The need for **greater access to effective remedy** for victims of business-related human rights abuses, through both judicial and non-judicial means.

Since this Guide is intended for companies, it focuses on implementation of the corporate responsibility to respect human rights. It builds on the [Interpretive Guide](#) developed by the Office of the UN High Commissioner for Human Rights with the support of Professor Ruggie, the author of the Guiding Principles. It takes the reader through the key steps expected of companies, from setting out their commitment to respect human rights, to identifying and addressing their human rights risks, to providing remedy where actual harms occur.

The Guide also takes into account, wherever possible, the role of states in ensuring the rule of law and meeting their duty to protect human rights through effective laws and policies and by investigating, punishing and redressing any abuses that occur. States’ obligations and companies’ responsibilities are independent of each other. However, the Guide recognises that where governments are unwilling or unable to meet their own human rights obligations, this makes it more challenging for E&R agencies to avoid being involved in harm to individuals’ human rights.

“No one size fits all” when it comes to putting respect for human rights into practice. Most E&R agencies will not start with a “blank slate” – they are likely to have a range of existing policies and processes that are relevant to respecting human rights, as well as an established corporate culture or set of values that guide the company’s actions. Operating environments differ widely and it is important that E&R agencies develop locally appropriate solutions that are consistent with human rights when responding to local impacts.

Finally, the Guide recognises that implementing respect for human rights across a company’s activities and business relationships is not simple. It takes commitment, resources and time to embed respect for human rights in the ways that a workforce thinks and acts. Moreover, companies rarely control all the circumstances in which

Background to the UN Guiding Principles

The Guiding Principles and UN Framework were developed by the former [Special Representative of the UN Secretary-General for Business and Human Rights](#), Harvard Professor John Ruggie, over the six years of his mandate from 2005 – 2011. Based on extensive research and consultations with representatives from government, business, and civil society (including trade unions, NGOs and legal and academic experts) across all continents, they gained broad acceptance and support. A new expert [UN Working Group](#) is now the UN body responsible for promoting implementation of the Guiding Principles and UN Framework.

There are several important international standards that draw directly on the Guiding Principles including: the revised OECD Guidelines for Multinational Enterprises, the IFC Performance Standards, and the ISO 26000 Social Responsibility Guidance. What does this mean for business? A convergence of international standards around the Guiding Principles should lead to fewer conflicting standards and consistent expectations.

they operate; those contexts may change rapidly, and serious human rights dilemmas may arise. Implementation of the Guiding Principles is therefore a process of continuous improvement, and this Guide itself reflects learning that will continue to evolve.

Scope of the Guide

- ▶ **Both recruitment and employment services:** This Guide covers the operations of companies involved in the recruitment of “direct hire employees” for client companies and/or the supply of “agency workers” to user enterprises, whether private or public sector employers, for a fee. (See [below](#) in this section for definitions of key terms used in the Guide.) Wherever relevant, the Guide distinguishes between issues regarding the recruitment of direct employees and those regarding the supply of agency workers.
- ▶ **Human rights content:** The Guide covers respect for all internationally recognised human rights, including the human rights of workers – direct hire employees, agency workers and the internal staff of E&R agencies – and the rights of individuals or groups in a position of heightened [vulnerability or marginalisation](#) (such as women, children and racial or ethnic minorities).
- ▶ **Companies’ activities and business relationships:** The Guide applies to E&R agencies’ own activities and to their business relationships with third parties. This includes their direct relationships with client companies and user enterprises, as well as with suppliers and contractors, including those that are one or more steps removed in the value chain.
- ▶ **Companies of all sizes:** The Guide should be useful to all sizes of E&R agencies, with varying types of ownership and structure. Wherever possible, attention is given to approaches that may be more appropriate for smaller E&R agencies.
- ▶ **Global applicability:** The Guide takes particular account of the experience of EU companies, but aims to be as globally applicable as possible. It is relevant to EU companies operating inside and outside the EU, recognising that some non-EU contexts can raise the greatest challenges. It should also be useful to companies whose headquarters are outside the EU.

Audience of the Guide

This Guide is for those practitioners in E&R agencies who have the lead responsibility for human rights issues, whatever function or department they sit in, at the corporate, country/market, or branch level. It offers a range of approaches that they can take and tailor to the needs of different departments, functions and individuals within their companies in ways that make sense within their own systems and cultures. This Guide should assist E&R agencies that have not yet identified a lead individual on these issues in thinking through where such responsibility may be most appropriately located.

This Guide should also be of use to those who are interested in promoting respect for human rights in the E&RA sector, including trade unions, NGOs, representatives of affected workers and communities, industry associations, multi-stakeholder initiatives, governments, and consumer organisations.

It should be of particular use also to those companies that rely on E&R agencies’ services for the recruitment of direct hire employees or the supply of agency workers, whatever sector they are in, as they seek to meet their own responsibility to respect human rights. The [Key Resources](#) section at the back of this Guide provides a non-exhaustive list of existing guidance relevant to such companies.

Structure of the Guide

The Guide is divided into the following parts:

- ▶ Part 1: About this Guide
- ▶ Part 2: Human Rights and Employment & Recruitment Agencies
- ▶ Part 3: Putting Respect for Human Rights into Practice – which explores implementation of each of the [six core elements](#) of the corporate responsibility to respect. For each element, the Guide addresses the same key points:
 - “What do the Guiding Principles Expect?”

- “Why is this Important?”
- “What are the Steps Involved?”, with each step supported by “Key Points for Implementation”, and a range of “Possible Approaches” that draw on good practice
- “Where to Start” guidance for companies that are just beginning to engage with these issues
- “Questions to Ask” to test consistency of a company’s approaches with the Guiding Principles

► Annexes: [Key Resources](#) and [Key Concepts](#)

Terms Used in the Guide

For the purposes of this Guide, the following general terms are used (see also a longer list in Annex 2 of [Key Concepts](#) used throughout the Guide):

Term	Meaning in this Guide
Agency worker	An individual placed with a user enterprise, but employed by an E&R agency (see Figure 1 below).
Candidate	An individual that an E&R agency comes into contact with as a potential recruit. A candidate may be recruited for placement as an agency worker or as an employee to be directly hired by a client company.
Client company	A company (which may be a private or public employer) that contracts with an E&R agency to recruit individuals as direct hire employees (see Figure 2 below).
Direct hire employee	An individual recruited by an E&R agency, but directly hired by a client company (see Figure 2 below).
Domestic worker	Individuals who perform work in an employment relationship in or for a private household or households.
Employment services	The recruitment and placement of agency workers in a third party entity (“user enterprise”) for a fee. The fee is usually, but not always, paid by the user enterprise to the agency as a mark-up on the per hour pay rate to workers. The agency is the formal employer and responsible for payroll and other employment-related services (which it may perform itself or outsource). In some instances, the agency may also be responsible for on-site performance management, but typically, the user enterprise is responsible for the supervision of work tasks. This is often referred to as a “triangular employment relationship”. Placements are sometimes long-term and on an on-going basis, or they may be short term and ad hoc, for instance to help user enterprises with peaks in production. (See Figure 1 below.)

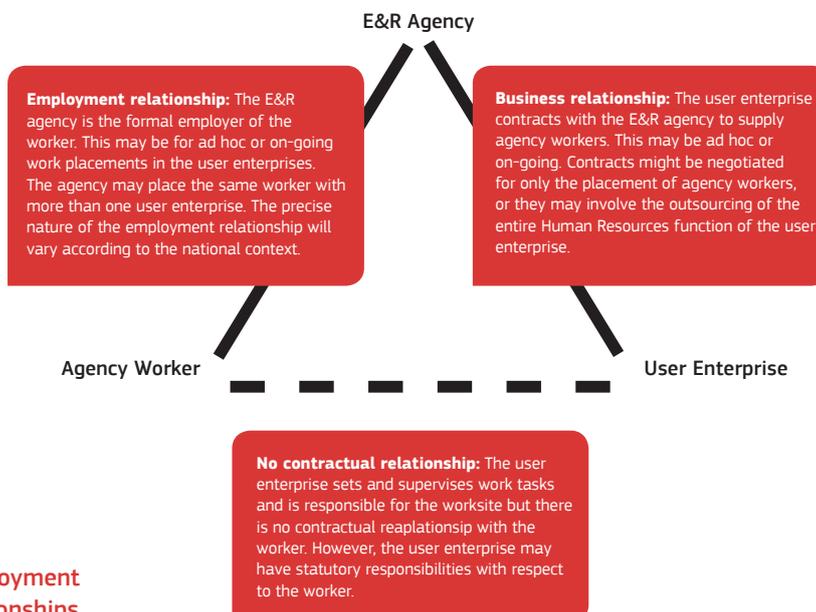


Figure 1: Employment Services Relationships

Term	Meaning in this Guide
Internal staff	An E&R agency's employees involved in running its operations, including recruitment consultants, sales staff, and back office staff.
Migrant worker	An individual who is, will be or has been engaged in a remunerated activity in a state of which he or she is not a national. In some cases, "internal" migrant workers who are recruited within a country may face similar risks as those who cross national borders. Where the Guide is referring to internal migrant workers, it makes this explicit.
Recruitment services	The recruitment of agency workers as well as workers who are recruited for positions with client companies where the employment relationship will be directly with the client company ("direct hire employees"). This means that rather than a triangular employment relationship, the client company employs the worker directly either on an open-ended or fixed term contract. In this model, the agency only acts as a "recruiter" and not as an "employer". (See Figure 2 below.)
User enterprise	A third party entity in which an E&R agency places agency workers. It may be a private or public sector entity.

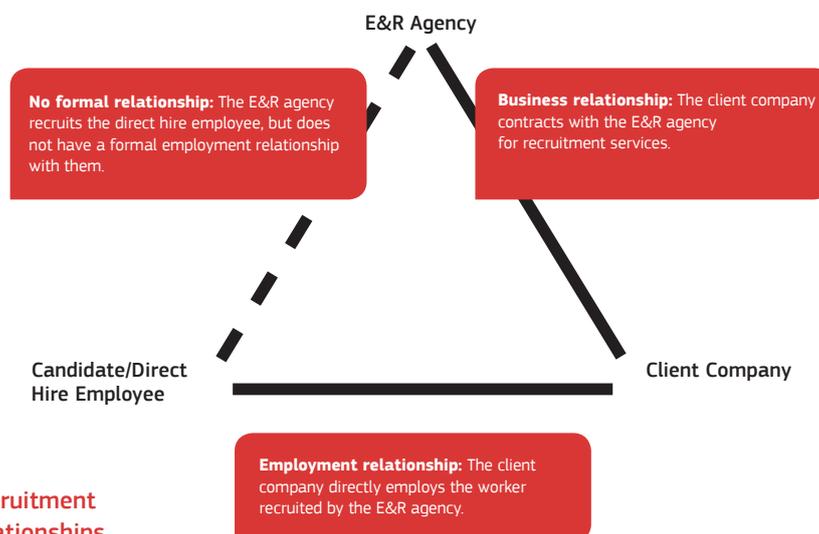


Figure 2: Recruitment Services Relationships