

***Mission for Migrant Workers Limited (MFMW Ltd.)***  
***Submission to the Panel on Manpower of the HK Legislative Council***  
**ON THE COLLECTION OF EXCESSIVE PLACEMENT FEES BY EMPLOYMENT AGENCIES**  
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1. Foreign Domestic Worker applicants are required as a policy to pass through employment agencies either in their home country and/or in Hong Kong to enter into working contracts with their employers in the territory. In this regard, restrictions are set by governments on placement fees that employment agencies can charge. In the case of the Philippines, it has implemented a “no placement fee policy” since 2006 while in Hong Kong, agencies are allowed by law to collect only a maximum of 10% commission from the migrant worker’s first month’s wage.
2. Despite these policies, however, agencies in both the sending country and in Hong Kong charge migrant workers excessive fees usually ranging from HK\$18,000 to HK\$28,000 as a condition for their job placement in the territory. Employment agencies force desperate job seekers into signing loan contracts with lending companies that tie them to pay 4 to 7 months of their wages.
3. Some employers on the other hand reinforce the practice either by directly deducting an amount from the domestic worker’s monthly wage or by reminding the FDW to pay the agency fees or the loans incurred as payment for placement fees.
4. While the deplorable practice of the employment agencies in Hong Kong is rampant, there seems to be no decisive move by government bodies specifically the Employment Agencies Administration or EAA to investigate, put on trial and prosecute the erring employment agencies. Defrauded migrant workers who eventually file complaints at the EAA against agencies which illegally exact fees from them encounter difficulties in pursuing their cases.
  - a. The burden of proof lies with the defrauded migrant worker. EAA requires complainants to produce documentary evidences, such as receipts for their cases to prosper. However, receipts or other documentary evidences surely and on purpose are not provided by the agencies knowing that these could be used against them. On the other hand, EAA also assumes a passive role, compelling agencies to produce the evidence only if the complainant suggests a probability in her testimony.
  - b. Numerous cases fall beyond the six-month statutory barrier making the complaints worthless.
  - c. Also, there were cases turned down by the EAA and complainants were instead recommended to file their cases with the Consumers Council or the Small Claims Tribunal (SCT).
  - d. Despite numerous cases filed at the EAA, to date, FDWs are yet to hear of an agency in Hong Kong that has actually been convicted and charged of excessive exaction of fees.



In the light of the difficulties mentioned in pursuing cases against culpable employment agencies, the Mission for Migrant Workers put forward the following recommendations:

1. Review the role and authority of the Employment Agency Administration (EAA) to give it more power to actively pursue cases against erring recruitment agencies.
2. To come up with procedures and mechanisms which would make EAA more accessible for FDWs victimized by these unscrupulous agencies.
3. Create mechanisms for the regular discourse between the EAA and FDW organizations and service providers as a means of feedback on problems and matters related to employment agencies.