

16th May, 2016

Suggestion to 《Draft Code of Practice for Employment Agencies》

Regarding the Draft Code of Practice for Employment Agencies <CoP> has only targeted employment agencies engaged in foreign domestic helper (FDH) placements and services and has failed to address the practical and moral issues from the lack of regulations for the protection for FDH.

Foreign Domestic Helpers were introduced in Hong Kong in 1972, and there remains a lack of regulations until now. It is evident that the Code of Practice will not provide the legal protection necessary for FDHs and their employers.

The Employment Ordinance (Cap.57) has been enforced since 1968, which has further extended to:

57A - Employment agency regulations (legislated in 1973)

57B – Employment of Children regulations (legislated in 1979)

57C – Employment of Young persons (Industry) regulations (legislated in 1980)

57D - Women and young men (industry) (Form) Notice (repealed in 1992)

Hong Kong Legislation has made alterations and/or extensions in related regulations based on the practical changes in our community. The existing Employment Ordinance was based on the circumstances of Hong Kong residents but as some sections are not suitable for FDH as they do not have permanent residency. The refusal to recognize the FDH as a separate group who do not have the same privileges as other Hong Kong residents has created problems and gaps between FDH and their employers. With over 343,000 FDHs employed and actively influencing over millions of people, Hong Kong Government must extend the regulations to cover FDH.

Employment agencies engaged in FDH placements have been resolving the issues between the FDH and their employers, and because such activities are not covered by the existing legislation, our Government had never encourage FDH to seeking for help from the employment agencies, the FDH is left without any representation or support but rely solely on the kindness of the societies organizations.

Employment agencies engaged in FDH services are already providing temporary accommodation, sickness care, legal advice, counseling, advanced training, leisure program and etc. Employment Agencies engaged in FDH services provide much needed services to FDH and have the responsibility to take care of over 343K women who have left their families and their loved one to work as Domestic Workers and contribute to Hong Kong. Employment Agencies engaged in FDH services have undertaken the moral responsibility for FDH where the rights of FDH are not protected.

As employment agencies engaged in FDH services, we are willing to take care of these FDH. There are only about one thousand employment agencies which provide service to over 343,000 FDHs. We are the minor disadvantaged party. We deeply hope that our government offers the appropriate assistance to us. Indeed the only parties responsible for such a serious community issue are our government and employment agencies.

As mentioned above, setting up a code of practice would not provide sufficient legal protection to both FDH and their employers. We therefore recommend extending the Employment Ordinance with a set of Employment of Foreign Domestic Helpers Regulations to clearly define the rights, proper and reasonable protection for Foreign Domestic Workers, and the responsibilities of their employers and the employment agencies which provide services to FDH. We also recommend that our government start the consultation of the legislative process as soon as possible.

From: Mr Martin Cheng – Chairman of
Association of Hong Kong Agencies for Migrant Workers Limited
Madagascar Agence de L'emploi Association