



► Promising practices for fair recruitment

March 2022

Recruitment of health workers through bilateral labour agreements (BLAs): Kenya and the United Kingdom

Key points

- Kenya and the United Kingdom have entered into a bilateral labour agreement (BLA) on recruitment of health workers, based on principles in the World Health Organization (WHO) Global Code of Practice
- Joint Committee to oversee the implementation and interpretation of the BLA will be tripartite and will include Ministry of Health officials.

Focus

FRI pillar: Improving laws, policies and enforcement to promote fair recruitment

Sector: Health Work

Country: Kenya and the United Kingdom

Responsible organization(s): Kenya Ministry of Labour and Social Protection, Kenya Ministry of Health, United Kingdom Department of Health and Social Care

workers to fill critical labour shortages – however labour migration schemes for health workers are often temporary and rights-restricting. Across the OECD (Organisation for Economic Co-operation and Development) countries, nearly one-quarter of all doctors are born abroad and close to one-fifth are trained abroad. Among nurses, nearly 16 per cent are foreign-born and more than 7 per cent are

Health care worker migration from Africa

International migration and mobility of health workers is increasing in volume and growing in its complexity. Many health systems rely on migrant

foreign-trained.¹ Seventy per cent of the health and social workforce are women.²

The World Health Organization (WHO) estimates a projected shortfall of 18 million health workers by 2030, mostly in low- and lower-middle income countries,³ and health worker mobility is predicted to continue and accelerate in response. Patterns of health worker mobility are complex, and evidence points to substantial intra-regional, “South-South”, and “North-South” movement, to complement better understood movement from the “Global South” to the “Global North”.⁴

In the African region, migration remains an attractive option for health workers looking for better remuneration and to improve skills and working conditions. However, if not managed well, increased international demand for health workers will leave considerable skills gaps in Africa’s already weak health systems.⁵

Recognizing the need for coordination, the World Health Organization (WHO) has introduced initiatives to support Member States and relevant stakeholders to better and more ethically manage international health worker migration and mobility. The WHO Global Code of Practice on the International Recruitment of Health Personnel is a key global governance instrument in this area.

The WHO Global Code of Practice on the International Recruitment of Health Personnel

Adopted in 2010, the WHO Global Code elaborates ethical norms and seeks to contribute to strengthened management through improved data,

information, and international cooperation. To date, 64 countries have incorporated Code provisions into national law, policy, or international bilateral agreements. A review of the code was conducted in May 2020, available [here](#).

Impact of COVID-19 on recruitment

The COVID-19 pandemic has had a devastating impact on healthcare systems and workers worldwide. The WHO estimates that between 80,000 and 180,000 health and care workers could have died from COVID-19 in the period between January 2020 to May 2021.⁶ In response to the pandemic, many governments fast tracked immigration procedures and recognition of skills in order to attract health care workers;⁷ and many also introduced bonus payments to encourage retention of health care workers.

Role of bilateral labour agreements (BLAs) in facilitating health worker migration

Bilateral labour migration agreements (BLAs) are a labour migration governance tool that aim to strengthen the protection of migrant workers and increase benefits for all parties. To be effective, they must be solidly underpinned by international human rights and labour standards and effectively implemented. Yet, experiences with BLAs have often fallen short of these expectations. Previous ILO and IOM (International Organization for Migration) research indicates that the contents of BLAs in Africa

¹ OECD Policy Responses to Coronavirus (COVID-19), May 2022, Contribution of migrant doctors and nurses to tackling COVID-19 crisis in OECD countries. Available [here](#).

² WHO Health workforce. Available [here](#).

³ WHO Health workforce. Available [here](#).

⁴ ILO, WHO, OECD (2017) The International Platform on Health Worker Mobility: Elevating dialogue, knowledge and international cooperation. Available [here](#).

⁵ Africa Union/JLMP (2020) [Mobility and Migration of African Health Workers Post COVID-19](#).

⁶ WHO, 20 October 2021, Health and Care Worker Deaths during COVID-19. Available [here](#).

⁷ For example, see research and data from the OECD [here](#).

are often deficient, particularly in regard to provisions on gender, social dialogue, wage protection measures and skills recognition, among others.⁸ ILO and IOM have developed a [BLMA Assessment Tool](#) which supports BLA design and implementation, and includes practical checklists and data collection tools. The United Nations Network on Migration launched in 2022 [Guidance on Bilateral labour migration agreements](#).

WHO-ILO-OECD Working for Health Programme

WHO, ILO and OECD collaborate on the [Working for Health Programme](#), which aims to expand and transform the health and social workforce to drive inclusive economic growth and achieve the Sustainable Development Goals. The Programme has goals to:

- Stimulate and guide the creation of at least 40 million new jobs in the health and social sectors; and
- Avert the projected shortfall of 18 million health workers, primarily in low- and lower-middle income countries, by 2030.

Development of the Kenya and UK BLA on health care workforce, 2021

In July 2021 the governments of Kenya and the UK signed a [BLA on health care workforce](#). The bilateral agreement sets out the framework under which nurses and other healthcare professionals from Kenya can be recruited to the UK. The agreement covers: areas of cooperation, recruitment, employment conditions, regulation of recruitment and the setting up of a Joint Committee to oversee the implementation and interpretation of the BLA.

The Joint Committee is to be tripartite, and to include Ministry of Health officials.

Kenya has ratified the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). Kenya is finalizing its draft National Labour Migration Policy. Currently, labour migration governance is guided by the 2013 National Employment Policy and Strategy for Kenya, and the 2014 Diaspora Policy.

Recruitment is to take place through accredited recruitment agencies in both countries, and must be compliant with the [United Kingdom's code of practice for the international recruitment of health and social care personnel in England, 2021](#) (which implements the WHO Global Code of Practice). The Kenyan National Union of Nurses (KNUN) has been involved in the development of the agreement, and has an active role in implementation, including by attesting the candidates for employment in the UK. Fees and costs are to be covered by the employers in the UK. The UK government states that operational guidelines are currently in development and to be published in due course.⁹

The BLA includes a section on “areas of cooperation” which covers bilateral exchanges, educational placements and capacity building. In this regard, the UK Government is undertaking to train the healthcare workforce through scholarships and through provision of grants to medical training institutions including the Kenya Medical Training College (KMTC), in order to strengthen knowledge acquisition and transfer.

In addition to the BLA, a further agreement creates a special route for unemployed Kenyan health professionals and health managers to

⁸ ILO (2019) [Bilateral Labour Migration Agreements in African Union Member States: Taking Stock and the Way Forward](#).

⁹ Bilateral Agreement between The Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland for Collaboration on Health Care Workforce.

work in the UK National Health Service (NHS). The scheme was requested by the Kenyan government. The agreement is only open to Kenya's surplus health workers who are qualified but unemployed. The exact numbers and process for visas were to be confirmed in 2021.¹⁰

Outcomes and next steps

The BLA is in the early stages of implementation and will be monitored by the Joint Committee. The Kenyan government is considering the conclusion of further BLAs for recruitment of healthcare workers with other key countries of destination. WHO and ILO tools and guidance (see below) can guide the process, ensuring that the outcomes of the BLA benefit workers, employers, and their representatives in countries of origin and destination.

Philippines-Germany BLA on health workers

Germany and the Philippines entered into a BLA for government-to-government recruitment of health workers in 2013. The parties to the Agreement include the Philippine Overseas Employment Administration (POEA), the German Federal Employment Agency (BA), International Placement Services (ZAV) and the (German) Agency for International Cooperation (GIZ). The Agreement is notable for inclusion of several good practices, including comprehensive pre-departure training programme and establishment of a Joint Committee to monitor implementation. The Joint Committee includes representatives from trade unions of both country parties (Ver.di from Germany and PSLINK from the Philippines).¹¹ The BLA is available [here](#).

The 'Better Regional Migration Management' project (September 2021 – May 2022)

BRMM is focused on laying the foundations for improving labour migration governance in East Africa by using evidence-based policies, enhancing migrant workers' qualifications and skills, and actively engaging social partners for improved development outcomes. The project is implemented in Ethiopia, Djibouti, South Sudan, Sudan, Somalia, Kenya, Uganda, Tanzania and Rwanda. The project covers 3 interrelated pillars of intervention: i) Established and strengthened foundations for enhanced labour market and migration information systems (LMMIS); ii) Better skills matching, recognition and development along specific migration corridors; and iii) Strengthened capacities of the social partners to engage in labour migration policy development and implementation. The project is funded by the UK Foreign, Commonwealth and Development Office.

Five years of the Fair Recruitment Initiative

- This promising practice is part of a series, and results from a stocktaking exercise undertaken five years after the launch of the Fair Recruitment Initiative (FRI).
- The FRI aims to ensure that recruitment practices nationally and across borders are grounded in labour standards, developed through social dialogue, ensure gender equality. Specifically, they:
 1. Are transparent and effectively regulated, monitored, and enforced;
 2. Protect all workers' rights, including fundamental principles and rights at work (FPRW), and prevent human trafficking and forced labour; and
 3. Efficiently inform and respond to employment policies and labour market needs, including for recovery and resilience.

¹⁰ UK Foreign, Commonwealth and Development Office (FCDO), 29 July 2021, "Unemployed Kenyan nurses given chance to work in UK under new Kenya-UK health agreements". Available [here](#).

¹¹ Presentation by Herbert Beck, Ver.di. Available [here](#).

Resources

[Bilateral Agreement between The Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland for Collaboration on Health Care Workforce](#)

United Kingdom “Code of practice for the international recruitment of health and social care personnel in England”. Available [here](#)

Africa Union/JLMP (2020) [Mobility and Migration of African Health Workers Post COVID-19](#)

ILO (2021) [Africa regional fair recruitment report: The recruitment of migrant workers to, within and from Africa](#) – including a case study for Kenya

ILO (2020) [COVID-19 and the health sector](#)

ILO (2019) [Bilateral Labour Migration Agreements in African Union Member States: Taking Stock and the Way Forward](#)

ILO (2019) [Tool for the Assessment of Bilateral Labour Migration Agreements Pilot-tested in the African region](#)

PSI (2021) [Factsheet #1: Migrant Health & Social Care Workers during the pandemic - What we know about their situation](#)

United Nations Network on Migration (2022) [Guidance on Bilateral labour migration agreements](#)

WHO (2020) [WHO Global Code of Practice on the International Recruitment of Health Personnel: Report of the WHO Expert Advisory Group on the Relevance and Effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel](#)

WHO (2017) [A dynamic understanding of health worker migration](#)

WHO (2010) [Innovations in Cooperation: A guidebook on bilateral agreements to address health worker migration](#)

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