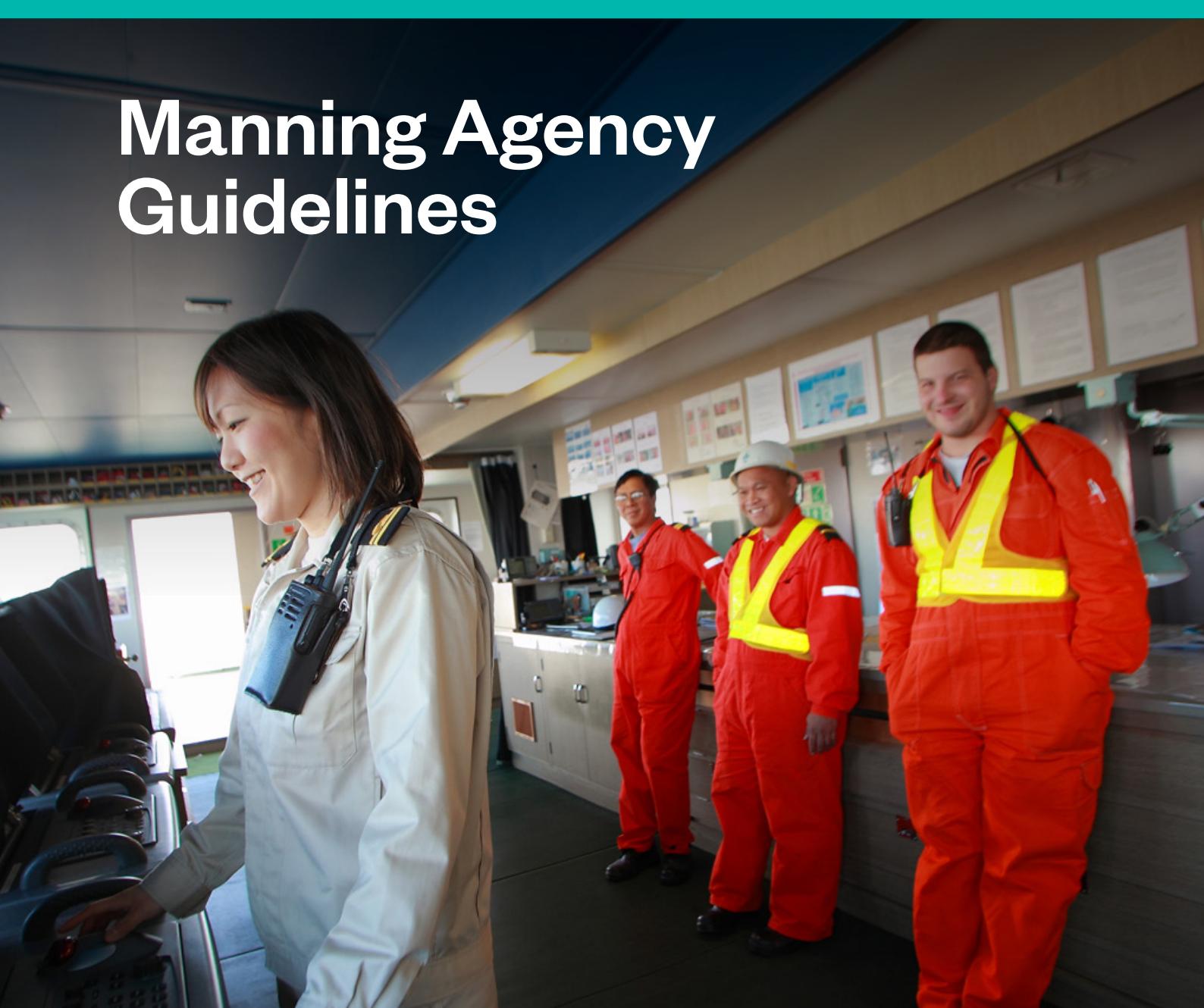




International
Chamber of Shipping
Shaping the Future of Shipping

Manning Agency Guidelines



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Manning Agency Guidelines

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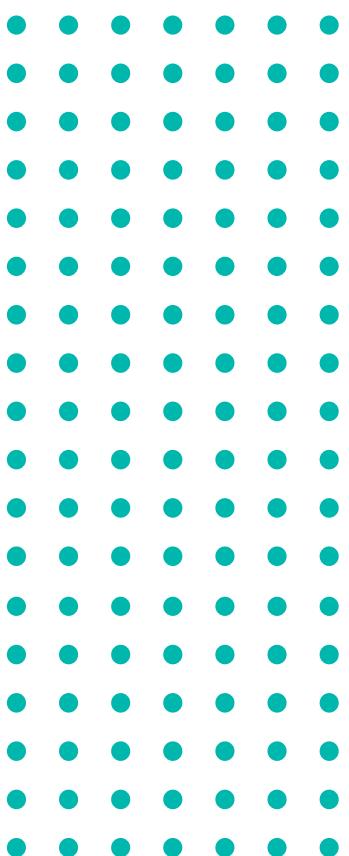
The International Chamber of Shipping (ICS) is the global trade association representing national shipowners' associations from Asia, the Americas and Europe and more than 80% of the world merchant fleet.

Established in 1921, ICS is concerned with all aspects of maritime affairs particularly maritime safety, environmental protection, maritime law, employment affairs and trade.

ICS enjoys consultative status with the UN International Maritime Organization (IMO) and International Labour Organization (ILO).



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Introduction

These guidelines have been produced to help shipping companies choose reputable manning agencies and to ensure that seafarers are recruited in line with the requirements of the ILO Maritime Labour Convention 2006 (MLC, 2006).

The guidelines aim to:

- Provide clear advice to companies on what to consider when identifying a manning agency;
- Advise shipping or ship management companies which have their own internal or ‘owned’ manning agencies, on how to operate them in line with legal requirements and best practice;
- Ensure companies know how to audit manning agencies to the IMO International Safety Management Code (ISM) and the ILO MLC, 2006 requirements;
- Encourage governments to operate systems to regulate recruitment and placement services for seafarers in accordance with MLC, 2006 through licensing or alternative means;
- Advise shipowners what to do when targeted by fraudulent operators that falsely advertise using their name;
- Help shipowners ensure their relationship with their manning agencies upholds seafarers’ rights and welfare; and
- Strengthen the provisions in the MLC, 2006.

What is a Manning Agency?

A manning agency is a company that fulfils the following functions:

- Advertises a vacancy and gathers applications;
- Proposes seafarers/candidates to principals/clients;
- Arranges medical and visa requirements for outgoing seafarers;
- Arranges most local procedures/requirements for crew joining; and
- Is generally understood as providing ‘recruitment and placement services’ as referred to in the MLC, 2006.

What is a Crew Manager?

A crew manager is a company that employs seafarers on behalf of a ship manager or shipowner or on its own behalf. A crew manager fulfils the functions set out below and operates as follows:

- Signs crew management agreements with shipowners (e.g. Crewman A, Crewman B or similar);
- Interviews seafarers, ensures all licences and certificates are authenticated and medicals and all other local requirements are satisfied;
- Selects appropriate and competent seafarers according to their service and experience and allocates them to relevant ships under management;
- May act as the maritime employer having all the judicial responsibilities for the crew;



- Ensures that flag State laws of the ships are satisfied especially as regards to ranks, qualifications and certificates of crew;
- Ensures that flag State laws are satisfied as regards employment regulations, crew tax and social insurance;
- Implements under its own name insurances for crew accident and crew protection and indemnity exposure;
- Administers crew and all their related issues including but not limited to:
 - Travel arrangements to and from the ships;
 - Payroll matters;
 - Medical needs/replacement, including leave applications; and
 - Conclusion of collective bargaining agreements;
- Provides training for cadets, leading to the attainment of IMO Standards of Training, Certification, and Watchkeeping (STCW) certificates of competency;
- Identifies, and upgrades training needs of seafarers. Initiates and implements training schemes on board and ashore aiming at maintaining the high quality and competence of the seafarers; and
- Is contracted to provide crew management services mostly on a lump sum (like in Crewman B) basis but at times on a 'cost plus' basis (like in Crewman A).

ILO Maritime Labour Convention, 2006

Regulation 1.4 and Standard A1.4 aim to ensure that seafarers can access an efficient and well-regulated seafarer recruitment and placement system. It contains requirements for public and private services whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, namely:

- All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer;
- Shipowners who use seafarer recruitment and placement services that are based in countries or territories that are not parties to the MLC, 2006 must ensure that those services conform to MLC, 2006 requirements;
- Public seafarer recruitment and placement services must be operated in an orderly manner protecting and promoting seafarers' employment rights;
- Private seafarer recruitment and placement services must comply with a system of licensing or certification or other form of regulation;
- These provisions shall also apply to recruitment and placement services operated by a seafarers' organisation in the member's territory for the supply of seafarers who are their nationals to ships flying their flag;
- Seafarer recruitment and placement services are prohibited from using means, mechanisms or lists intended to prevent or deter seafarers gaining employment they are qualified for;
- No fees or other charges for seafarer recruitment or placement, or for providing employment to seafarers, may be borne directly or indirectly, in whole or in part, by seafarers, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents. (The cost of visas shall be borne by the shipowner); and
- Seafarer recruitment and placement services maintain an up-to-date register of all seafarers recruited or placed by them, for the competent authority to be able to inspect.



Private seafarer recruitment and placement services are also required to ensure that:

- Seafarers are informed of their rights and duties under their employment agreements prior to or in the process of engagement and that proper arrangements are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;
- Seafarers recruited or placed by them are qualified and hold documents necessary for a job and that seafarers' employment agreements respect applicable laws and regulations and any collective bargaining agreement forming part of the employment agreement;
- The shipowner with whom any seafarer is placed has the means to protect seafarers from being stranded in a foreign port;
- Any complaint concerning their activities is examined and responded to and the competent authority is advised of any unresolved complaint; and
- There is an established a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss they may incur due to the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet these obligations.

Each country that has ratified the MLC, 2006 is required to advise its nationals on the possible implications of signing on a ship that flies the flag of a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by the MLC, 2006 are being applied. Such measures shall not contradict the principle of free movement of workers stipulated by the treaties to which the two States concerned may be parties.

Three Main Types of Manning Agencies

Introductory agency	Sends papers for a company to review. They may supply applications and/or curriculum vitae to employers, or conduct interviews on the employer's behalf, in return for a fee paid by the employer. Such an agency may fall outside the MLC, 2006 definition of a recruitment and placement service.
Hiring hall	An organisation usually under a labour union's auspices, which provides new recruits for employers with a collective bargaining agreement with the union. Employer use of a hiring hall may be voluntary or compulsory under the terms of a contract with the union (or, in a few cases, the labour laws of the jurisdiction). Compulsory use of a hiring hall may turn employers into a closed shop as seafarers must join the union before hire. The hiring hall places responsibility on a union to ensure its members are suitably qualified and responsible individuals before deployment to the employer. A union will often enforce a basic code of conduct among its members. Hiring halls are most common in skilled trades and where employers quickly need to find qualified recruits and the relationship between the union and employer can be relatively harmonious if a hiring hall is reputable. The union will handle qualifications, eligibility requirements and maintain individual employment records.
Employment business	Chooses seafarers for shipping companies, similar to a temp agency which provides workers for a defined period for shore-based roles. Employment businesses may be deemed to be the employer of the seafarers supplied to companies, including where specified in accordance with the EU Directive on Temporary Agency Work.



What Defines a Good Manning Agency?

A good Manning agency should be able to:

Be transparent in its operations	<input checked="" type="checkbox"/>
Be licensed by the appropriate national authority or regulated by national laws or regulations, or operate to national legal standards that are effectively enforced	<input checked="" type="checkbox"/>
Provide a list of customers to approach for feedback	<input checked="" type="checkbox"/>
Respond to problems identified and be willing to resolve these quickly	<input checked="" type="checkbox"/>
Be International Organization for Standardization (ISO) certified if possible, for consideration at tender, or Tanker Management and Self-Assessment (TMSA) vetted (see TMSA best practice criteria below)	<input checked="" type="checkbox"/>
Have a long-term relationship with its seafarers and their customers, which would indicate a reputable agency with a high degree of satisfaction	<input checked="" type="checkbox"/>
Allow for some degree of choice of the candidates available for a particular post	<input checked="" type="checkbox"/>
Validate certificates held by candidates being offered up	<input checked="" type="checkbox"/>
Fulfil contractual obligations with the shipowner/ship manager on a timely basis	<input checked="" type="checkbox"/>
Answer questions posed as part of an audit process, if such a process exists	<input checked="" type="checkbox"/>
Provide positive references as part of a due diligence process	<input checked="" type="checkbox"/>
Provide 24-hour availability including a dedicated customer relations manager	<input checked="" type="checkbox"/>
Be confident that it can handle data responsibly and comply with respective data protection laws such as General Data Protection Regulation (GDPR) in Europe	<input checked="" type="checkbox"/>
Be flexible in terms of what they offer, e.g. determining what is needed by way of services available and meeting these needs	<input checked="" type="checkbox"/>



Manning Agency Obligations

- Accurately describe the terms and conditions/remuneration for employment;
- Make it easy to relieve a seafarer at the end of their contract and identify a relief seafarer;
- Not charge seafarers for recruiting or placing them or require an administration charge;
- Not adopt any discriminatory practices, such as victimisation or failing to respect protected characteristics such as gender, age, or race;
- Not operate any blacklists of people, including listing who may have raised a complaint under the MLC, 2006 or a health and safety issue;
- Only promise genuine jobs and reflect the job descriptions accurately;
- Demonstrate awareness of different applicable flag and labour supply state laws;
- Be able to provide referee shipping companies to seek a performance reference;
- Be sensibly priced, thorough and not charge seafarers for anything to be met under MLC, 2006;
- Find it easy to establish and agree appropriate break clauses in a contract; and
- Clearly explain their business roles and responsibilities and the shipowner's roles and responsibilities so that a seafarer clearly knows who is responsible for what.

Tanker Management and Self-Assessment (TMSA) Criteria Elements 3 and 3A

Ships subject to TMSA vetting should follow the steps below, which may also help companies whose ships are not subject to TMSA. For the purposes of TMSA, where responsibilities are delegated to manning agents or third-party contractors, their functions are assessed as if they were performed by the company.

- Ensure that all vessels have qualified, competent and motivated personnel who fully understand their roles and responsibilities capable of working effectively as a team; and
- Establish and maintain procedures related to seafarer recruitment, training and wellbeing including:
 - Verifying that certificates of competency are authentic and valid;
 - Taking additional steps to determine competency of vessel personnel and accuracy of pre-employment records;
 - Verifying that seafarers meet medical requirements upon appointment and on an ongoing basis;
 - Ensuring that mandatory, company specific and individual training requirements are identified and that training records of personnel are kept;
 - Confirming that seafarers' working hours are accurately recorded and that management monitors the records to ensure adequate rest periods;
 - Providing adequate resources to administer the conditions of employment for seafarers including personal needs, wellbeing and requirements; and
 - Determining and clearly stating the working language to be used on board vessels and ensuring that all vessel personnel can communicate in this language.



Fraudulent or Bogus Operators

The primary concern is with entities purporting to be manning agents claiming to have a relationship with a shipowner/employer, but who do not in reality and who advertise and recruit for non-existent jobs. The MLC, 2006 does not have a mechanism to handle entities operating bogus and fraudulent operations, often through websites. If you become aware of a fraudulent or bogus operator using your company's name, you should:

- Report the case to both the police and maritime authorities to formally record it;
- Place a disclaimer on your company's website to explain that there is a fraudulent agency using your company's name and to discourage people contacting them;
- Provide information on the company's website to explain your recruitment process, to be transparent with people potentially interested in being recruited by your company;
- Check the International Transport Workers' Federation (ITF) *Recruitment Scams* factsheet at: www.itfseafarers.org/en/your-rights/recruitment-scams;
- Alert seafarers not to respond to requests for upfront payment;
- Encourage seafarers to check information and make sure hyperlink addresses are genuine; and
- Educate seafarers on how to identify and avoid scams.

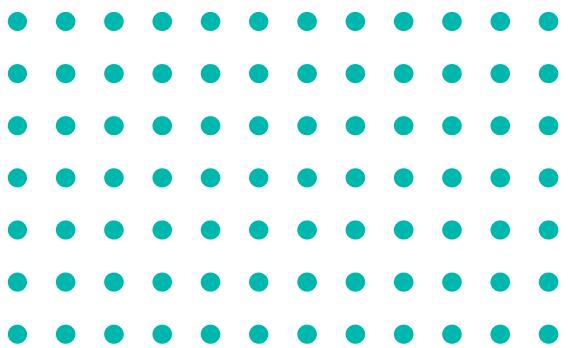
Key Criteria Checklist

When reviewing manning agencies, shipowners should be able to tick all the boxes in the checklist below to verify the manning agency meets all the key criteria.

Shipowners should also check the national flag legislation of the manning agents' operations. Several labour supply countries have detailed legislative provisions for their recruitment and placement services licensing regime on their official websites, which could be added to the checklist for review by shipowners when selecting a manning agency.

Criteria	Tick
ISO accredited/TMSA criteria met	
Does not charge seafarers for any services except those allowed under MLC, 2006	
Does not operate blacklists	
Accurately advertises and fills vacancies which they are handling	
Ensures all appropriate terms and conditions of employment are properly honoured	





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