

HOW MOM DEALS WITH EMPLOYMENT DISCRIMINATION

1. MOM refers to the Tripartite Guidelines on Fair Employment Practices (www.tafep.sg) in promoting fair and responsible employment practices, including on matters related to employment discrimination. Employers are expected to observe the Guidelines and adopt the principle of hiring on merit.

What happens when employment discrimination occurs

2. Individuals who encounter employment discrimination can contact the Tripartite Alliance for Fair Employment Practices (TAFEP) for advice and assistance.

3. Leveraging on its unique identity as a tripartite promotional body, TAFEP will contact the employer and work with the employer to improve its employment practices, put in place fair and responsible employment practices and adopt the Tripartite Guidelines. Employers should take this opportunity to improve on their policies and practices to ensure a fair and inclusive workplace.

4. In instances where the employer is recalcitrant or unresponsive, or persistently fails to improve on their employment practices, TAFEP would refer the case to MOM for further investigation.

What happens when the case is referred to MOM

5. MOM takes a strong view towards discrimination allegations at the workplace. Allegations of employment discrimination are serious and when referred to MOM, MOM will investigate. During investigations, the employer will be given an opportunity to present its case.

6. If the complaint is substantiated and the employer has contravened the Tripartite Guidelines on Fair Employment Practices, the employer will generally be given the opportunity to rectify its actions. MOM will also inform employers that non-rectification and future occurrences could result in administrative action, including curtailment of their work pass privileges¹. In cases where employers engage in discriminatory employment despite MOM's advice, MOM will take the appropriate actions to curtail their work pass privileges. MOM will inform the employer in writing if its work pass privileges have been curtailed. The period of curtailment may vary, depending on the severity of the case.

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¹ In determining whether work pass applications are approved, MOM has the right to consider whether the employer is suitable to be granted work passes. MOM takes into consideration criteria such as:

- Whether the employer is recalcitrant and refuses take corrective actions despite counselling from TAFEP and MOM
- Whether the employer has previously flouted work pass regulations

About Tripartite Alliance for Fair Employment Practices (TAFEP)

- TAFEP was set up in 2007 to promote the adoption of fair, responsible and merit-based employment practices among employers, employees and the general public.
- TAFEP works in partnership with employer organisations, unions and the government to create awareness and facilitate the adoption of such practices. To help organisations implement fair employment practices, TAFEP provides tools and resources, including training workshops, advisory services and educational materials. Those who encounter employment discrimination can also contact TAFEP for advice and assistance.
- In the course of TAFEP's work to assist individuals who encounter employment discrimination, TAFEP has advised over 800 employers, the vast majority of which have heeded TAFEP's advice and improved their employment practices.
- In instances where the employer is recalcitrant or unresponsive, or persistently fails to improve on their employment practices, TAFEP would refer the case to MOM for further investigation.

Tripartite Guidelines on Fair Employment Practices

Introduction

Singapore is a meritocratic society and implementing fair and merit-based employment practices is the right thing to do. Singapore also has a diverse workforce in terms of its ethnic, religious, age and gender makeup. It will be increasingly so in terms of age and gender, as our population ages and as we encourage more women to enter the workforce. Implementing fair and merit-based employment practices widens the pool of candidates that employers can recruit from, increasing their chances of finding the best person for the job. Treating employees fairly and with respect also helps employers to retain valued employees to sustain and grow their businesses. Employees will also be more motivated to put in their best for the organisation.

The Tripartite Guidelines on Fair Employment Practices, formulated by the Tripartite Alliance for Fair Employment Practices (TAFEP), sets out fair employment practices for adoption by employers. This will not only help prevent discrimination at the workplace, but also encourage employers to adopt progressive HR practices that will benefit both employers and employees. The Guidelines build on previous Guidelines including the "Code of Responsible Employment Practices" issued in 2002 and the "Tripartite Guidelines on Non-Discriminatory Job Advertisements" issued in 1999 and revised in 2006.

Employers are encouraged to abide by the principles of fair employment and adopt the recommended good practices. If services of employment agencies or labour suppliers are used to fill job vacancies, end-user companies should also encourage the agencies and suppliers to adopt these Guidelines.

Principles of Fair Employment Practices

The five principles of Fair Employment Practices are:

- a. Recruit and select employees on the basis of merit (such as skills, experience or ability to perform the job), and regardless of age, race, gender, religion, family status or disability.
- b. Treat employees fairly and with respect and implement progressive human resource management systems.
- c. Provide employees with equal opportunity to be considered for training and development based on their strengths and needs, to help them achieve their full potential.
- d. Reward employees fairly based on their ability, performance, contribution and experience.
- e. Abide by labour laws and adopt the Tripartite Guidelines on fair employment practices.

Consistent and Fair Selection Criteria

Employers should apply relevant and objective selection criteria consistently for all aspects of employment, including recruitment, training, promotions, postings, and retrenchments. These criteria should be related to the job requirements. This will help ensure that applicants / employees are fairly and objectively assessed on their suitability. Examples of acceptable requirements include:

- a. Type of experience required for the job, e.g. marketing experience.
- b. Amount of experience, e.g. three years in relevant field.
- c. Educational qualifications, e.g. degree in engineering / ESS Level 5.
- d. Specific skills, e.g. proficient in short-hand writing.
- e. Employee's willingness to commit to particular job requirements / characteristics, e.g. frequent travel or a particular shift pattern.

As long as they are able to perform the requirements of the job, employers should consider disabled applicants / employees on a consistent and fair basis.

The selection criteria should be:

- a. Made known to all employees and job applicants; and
- b. Reviewed regularly to ensure that they remain relevant.

Hiring and Developing a Singaporean Core

Singaporeans aspire to have good jobs and prospects, while businesses need to compete and grow well in a globalised economy. An open and diverse employment market is key to achieving both these outcomes.

Singaporeans must remain the core of our workforce. At the same time, foreigners play a valuable role in complementing our workforce. Foreigners with relevant qualifications and experience help to fill gaps in skills and expertise.

Employers are advised to make reasonable efforts to attract and consider Singaporeans for job positions on merit, and to train and develop their potential and careers. Examples of such efforts include:

- i) Ensuring that jobs advertised must be open to Singaporeans;
- ii) Working with educational institutions, career centres and recruitment agencies to attract and recruit Singaporeans;
- iii) Developing skills and expertise of Singaporean employees for higher level jobs.

TAFEP and MOM will make reference to this set of guidelines in promoting fair and responsible employment practices.

Recruitment

Objective and fair selection criteria should be consistently applied at all stages of the recruitment process. This will help ensure that the best candidate, assessed based on the candidate's ability to perform the job, is recruited to fill the post. Staff involved in recruitment should be trained to recognise and avoid discriminatory practices.

JOB ADVERTISEMENTS¹

Selection criteria should be stated clearly in the job advertisements, and should principally be related to qualifications, skills, knowledge and experience.

Employers who advertise a position requiring a specific attribute which may be viewed as discriminatory should ensure it is indeed a requirement of the job and state the reason for the requirement in the advertisement. This will ensure that the job requirements are well understood, expand the range of eligible candidates, and avoid negative perceptions of the employer concerned. Words or phrases that exclude Singaporeans or indicate preference for non-Singaporeans should not be used in job advertisements.



¹ Adapted from the "Tripartite Guidelines on Non-Discriminatory Job Advertisements" (2006).

Age

As a general principle, employers should not stipulate age as a requirement for employment. Words or phrases that suggest preference for job candidates of a particular age group should also not be used in job advertisements. Examples include “young”, “youthful working environment” or “fresh school leaver / fresh graduate”.

If the nature of the job is physically demanding such as the handling of heavy cargo, the required physical attributes or other job-related criteria should be clearly described in the job advertisements, rather than indicating an age cut-off. Examples:

- Candidates are required to load and unload sacks of rice of at least 10kg each.
- Candidates are required to handle heavy equipment.

In support of national efforts to enhance employment opportunities for older workers (e.g. WDA’s ADVANTAGE! Scheme), employers may state in their job advertisement that the job is suitable for older workers. Example:

- Recruiting cashiers. Job is suitable for older workers.

Race

Race should not be a criterion for the selection of job candidates as multi-racialism is a fundamental principle in Singapore. Selection based on race is unacceptable and job advertisements should not feature statements like “Chinese preferred” or “Malay preferred”.

Language

If a job entails proficiency in a particular language, employers should justify the need for the requirement. This would reduce ambiguity and minimise incidence of misunderstanding between the job seekers and the recruiting party. Examples:

- Chinese-language teacher for pre-school centre, good credit in 'O'-Level Chinese.
- Translator for a leading Malay sports magazine. Proficiency in Malay is a must.
- Tour Guides to take Chinese / Japanese / Indian tourist groups. Knowledge of Mandarin / Japanese / Indian dialects is essential.

Gender

Where the practical requirements of a job dictate the need for employees of a particular sex, the reason should be clearly stated. Example:

- Women's Fashion Boutique requires salesgirl to model clothes while on the job.

Words or phrases that suggest preference for job candidates of a particular gender such as "female working environment" or "waitress" should not be used in job advertisements.

Marital Status

Marital status is generally an irrelevant criterion in employment, as jobs can be performed equally well by either married or single persons.

Religion

Religion is unacceptable as a criterion for recruitment except in cases where employees have to perform religious functions as part of the job requirement. In such cases, the requirements should be clearly and objectively presented.

JOB APPLICATIONS

Job Application Forms

Employers should review the fields in their job application forms to ask only information relevant to assessing an applicant's suitability for a job. This not only streamlines the application form but also ensures that the job application will be assessed fairly and based on merit. Examples:

a. For the job of a clerical assistant, examples of information which would be relevant in assessing the applicant's suitability could be:

- Whether the applicant has the required skills, such as literacy skills and familiarity with the use of word processors; and
- Whether the applicant has experience in a similar job.

Examples of information that might not be relevant to ask in the application form would be the gender, marital status and whether a applicant is pregnant or has children.



b. For the job of an accountant servicing clients in the Asia-Pacific region, examples of information which would be relevant in assessing the applicant's suitability could be:

- Whether the applicant has the relevant professional qualification, i.e. a degree in accountancy; and
- Whether the applicant is able and willing to make frequent overseas trips.

Examples of information that might not be relevant to ask in the application form would be the age of the applicant.

c. For the job of a goods delivery personnel, examples of information which would be relevant in assessing the applicant's suitability could be:

- Whether the applicant has the required skills, such as the relevant class of driving licence; and
- Whether the applicant is physically able to handle heavy cargo.

Examples of information that might not be relevant to ask in the application form would be the race and religion of the applicant.

Additional personal data if required for administrative purposes can be collected after selection or shortlisting. If the additional personal data are asked in the application form, the form should state that the information is captured for administrative purposes only.

JOB INTERVIEWS

Interviewers should be conscious not to stereotype candidates based on criteria that are not relevant for the job. Interviewers should confine questions to those relevant to assessing an applicant's suitability. Should questions which may be perceived to be discriminatory be asked, the reasons for asking such information should be made known to the interviewee to prevent misunderstanding. Examples:

- a. For the job of a call centre operator, examples of questions which could be asked to assess an applicant's suitability could be:
 - To describe relevant experience in handling customers; and
 - To explain how he or she coped when encountering a difficult customer.

Examples of information that might not be relevant to ask during the interview would be the religion of the candidate and whether the applicant has children.

- b. For the job of a project manager, examples of questions which could be asked to assess an applicant's suitability could be:
 - To describe past projects handled, and how he or she contributed to the outcomes achieved; and
 - To explain why the applicant thinks he or she is suitable for the position.

Examples of information that might not be relevant to ask during the interview would be whether the candidate is married or whether the applicant is planning to have any more children.

If the position requires a commitment which is over and above usual job requirements, such as a willingness to travel frequently, interviewers should give full details of the job requirements and ask the candidate if they will be able to meet all the requirements.

Interviewers should record their assessment of the applicant's ability to meet the selection criteria. This will help to ensure a systematic and unbiased assessment of the applicant's strengths and weaknesses, and a fair selection.

Unsuccessful candidates should also be informed of the results.



If additional personal data is required for administrative purposes, this can be asked after selection or shortlisting.

TESTS

If tests are to be used for selection purpose, they should be:

- a. Related to the job requirements; and
- b. Reviewed regularly to ensure that they remain relevant and free from bias in content or scoring.

Remuneration

Employers should pay employees wages commensurate with the value of the job. Regardless of age, gender, race, religion and family status, employees should be paid and rewarded based on their performance, contribution and experience.

Appraisal, Promotion, Posting and Training



Employers should adopt appraisal systems which are fair and objective, with measurable standards for evaluating job performance. This would help ensure that employees are assessed and promoted on the basis of merit.

Where opportunities for posting and training arise, employers should inform all eligible employees of the conditions and procedure for application. Employers should assess all interested candidates based on objective selection criteria, to ensure that no one is overlooked. The eligibility criteria should also be regularly reviewed to ensure that they are not discriminatory.

Dismissals and Retrenchments

Employers should keep records of their employees' performance and conduct. A decision to dismiss an employee should be based on documented poor performance or misconduct. An enquiry should be conducted to allow the employee to present his or her case before any decision is made with regard to dismissing the employee.

Employers facing situations of excess manpower can refer to the "Tripartite Guidelines on Managing Excess Manpower" for alternatives to avoid or minimise the need for retrenchments.

Where retrenchments are necessary, the retrenchment exercise should be carried out responsibly in consultation with the union (if the company is unionised), or with the employees affected (if the company is not unionised).

Grievance Handling

Employers should set up mechanisms to deal with complaints of discrimination. Employers should handle all complaints of discrimination seriously, conduct proper investigations into complaints and respond to the affected person. Confidentiality should be observed and both the complainant and respondent should be treated fairly. Unionised employees can also seek advice from their unions in situations where they feel that they have been discriminated against. Employees could also approach the Tripartite Alliance for Fair Employment Practices for advice.

Job applicants and employees who perceive that they have been discriminated against should seek clarification or an explanation from the employer concerned before escalating the issue further. This will give the employer an opportunity to explain his decision and clarify his position, or where necessary, take corrective action. This would help avoid misunderstanding, and in cases where the employee is still in employment, help preserve a positive employer-employee relationship.



Roles of Employers and Employees

Employers should:

- a. Abide by the Tripartite Guidelines on Fair Employment Practices;
- b. Adopt the principles of the Employers' Pledge of Fair Employment Practices; and
- c. Publicise the Guidelines and educate both management and employees, so that they understand their roles and appreciate the sensitivities and issue involved.



Employees also have a role in helping to promote fair employment practices.

Employees should:

- a. Familiarise themselves with the Tripartite Guidelines on Fair Employment Practices;
- b. Exercise mutual-respect and understanding at the workplace to enhance workplace harmony; and
- c. Seek to resolve grievances arising from discrimination at work in a reasonable manner through dialogue, discussion and established mechanisms.

The Ministry of Manpower and the Tripartite Alliance for Fair Employment Practices will make reference to this set of Guidelines when addressing complaints of alleged unfair employment practices.

Conclusion

The successful implementation of fair employment practices requires the cooperation and commitment of employers and unions / employees, with the support of the Government. It involves the changing of mindsets and entrenched employment practices which could be more effectively achieved through education and promotional efforts over time. Given Singapore's strong labour management relations and tripartite partnership, the Tripartite Alliance for Fair Employment Practices is confident that fair employment practices would eventually be an integral part of Singapore's HR system, one which is progressive and contributes to organisational excellence and the well-being of all employees.