

POLICY AND GUIDELINES ON EQUAL EMPLOYMENT OPPORTUNITIES

1. Policy Statement

- 1.1 It is the policy of the Kadoorie Farm & Botanic Garden Corporation ("KFBG") to provide equal employment opportunities and a place of work free of harassment and discrimination. Discrimination on the grounds of race, sex, nationality, disability, marital status, family status as well as sexual harassment, disability harassment and harassment on the grounds of race are unlawful and will not be tolerated. Staff members have a right to complain should any of these unlawful acts occur.
- 1.2 It is the intention of KFBG to take whatever action that may be needed to prevent, correct, and, if necessary discipline behaviour which breaches this policy. Where any of the unlawful acts is found to have occurred, KFBG will act to stop the discrimination or harassment, prevent its recurrence and take appropriate steps against those responsible. By stating KFBG's stance on discrimination and harassment clearly and by putting an appropriate procedure in place, this policy also aims to cultivate a sense of justice, fairness and openness in the work environment.
- 1.3 This policy applies to all staff members, of KFBG. All volunteers, consultants, agents and contractors of KFBG are expected to observe and comply with this policy in terms of the conduct expected of each of them.

2. Meaning of Discrimination, Harassment, Vilification and Victimization

- 2.1 KFBG complies fully with Hong Kong law and does not tolerate or condone any type of discrimination or harassment prohibited by law. In this regard, it is KFBG's policy to meet the requirements of equal opportunities and anti-discrimination legislation, in particular, the Sex Discrimination Ordinance (the "SDO"), Disability Discrimination Ordinance (the "DDO"), Family Status Discrimination Ordinance (the "FSDO"), and Race Discrimination Ordinance (the "RDO"). These laws also prohibit harassment, victimization and vilification.
- 2.2 **Definition of Race:** Under the RDO, the term race means race, colour, descent, national or ethnic origin. The RDO also prohibits discrimination on the ground of the race of a person's near relative.
- 2.3 **Definition of Disability:** Under the DDO, the term disability in relation to a person includes the physical, mental, sensory, neurological, or learning disabilities and the presence of some disease-causing organisms in the body. It also includes the malfunction, malformation or disfigurement of a part of a person's body; or a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions, or judgment or that results in disturbed behaviour. Disability includes a disability that presently exists; previously existed but no longer exists; may exist in the future; or is imputed to a person.

2.4 Discrimination: The anti-discrimination legislation in Hong Kong prohibits discrimination on the grounds of gender, pregnancy, marital status, disability, race or family status. Discrimination can either be direct discrimination or indirect discrimination.

2.4.1 Direct discrimination occurs when a person is treated less favourably than another on any of the prohibited grounds. For example, it is unlawful for an individual to discriminate against an employee on a prohibited ground:

- in the way the individual affords that employee access to opportunities for promotion, transfer or training, or to any other benefits, services or facilities, or by refusing or deliberately omitting to afford that employee access to them;
- by the terms of employment the individual affords that employee; or
- by dismissing that employee, or subjecting that employee to any other detriment.

2.4.2 Indirect discrimination occurs when a requirement, rule, policy, or practice that is applied to a group of persons has a disproportionately detrimental impact on those persons within the group who have a prohibited attribute (for example, are disabled or of a particular race). It may occur in practices which are fair in form and intention but discriminatory in impact and outcome. Indirect discrimination is not unlawful if the requirement, rule, policy or practice can be justified by the employer. For example, in the employment area, applying a certain minimum height or weight requirement to applicants could exclude a large proportion of female applicants and could be to their detriment. This would be indirect discrimination on the ground of gender unless there was justification for a minimum height or weight requirement in the particular job.

2.4.3 In determining whether a person discriminates against another, it is irrelevant whether or not that person is aware of the discrimination or whether or not it is intentional.

2.4.4 If an act which is alleged to be discriminatory is done for 2 or more reasons and one of the reasons is the prohibited ground (whether or not it is the dominant or substantial reason for doing the act), the act will be deemed to be done for the prohibited ground under Hong Kong law.

2.5 Harassment: Harassment of an individual or group on the basis of race, sex, disability or any other classification protected by law is prohibited by KFBG. It is not necessary for the person being harassed to have to tell you that they were humiliated or offended by the behaviour. (For details of the Anti-Harassment Policy of KFBG, please refer to sections 3, 4 & 5 below.)

2.6 Vilification: The Discrimination Ordinances protect individuals from discrimination by way of vilification. Vilification means any activity in public which incites hatred towards, serious contempt for, or severe ridicule of another person with a disability or on the ground of race. Activity in public includes any form of communication in public, any conduct observable by the public (e.g. speaking, writing, gestures or wearing of clothing, displaying signs, flags, emblems and insignia) and the dissemination of any matter to the public. Where such behaviour includes threats of harm or property damage, it may constitute serious vilification, which is a criminal offence.

2.7 Victimisation: The Discrimination Ordinances protect individuals from discrimination by way of victimisation. Discrimination by way of victimisation happens if a person treats another person less favourably than other people by reason of that person (or third person) having done or intending to, or being suspected of having done or intending to:

- bring proceedings under one of the Discrimination Ordinances;
- give information or evidence in connection with proceedings under one of the Discrimination Ordinances;
- do anything under or by reference to the Discrimination Ordinances; or
- allege that someone has contravened the Discrimination Ordinances.

ANTI-HARASSMENT POLICY

3. The Law – Sexual Harassment

Sexual harassment is unlawful under the Sex Discrimination Ordinance, Chapter 480 of the Laws of Hong Kong. It may occur regardless of the gender of the parties.

Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful.

3.1 What is Sexual Harassment

Sexual Harassment consists of any unwelcome conduct of a sexual nature in circumstances where a reasonable person would have anticipated that the harassed person would be offended, humiliated or intimidated. It also includes one or more persons engaging in conduct of a sexual nature which creates a sexually hostile or intimidating work environment.

Sexual harassment includes:

- unwelcome sexual advances
- unwelcome requests for sexual favors
- unwelcome verbal, non-verbal or physical conduct of a sexual nature
- conduct of a sexual nature which creates a hostile or intimidating work environment

3.2 Examples of Sexual Harassment from the Equal Opportunities Commission

- Repeated attempts to make a date, despite being told ‘No’ each time
- Relentless humour and jokes about sex or gender in general
- Sexual propositions or other pressure for sex including suggestions that sexual co-operation or the toleration of sexual advances may further a person’s career
- Implied or overt threats regarding sex
- Obscene gestures
- Inappropriate touching (including patting, touching, kissing, pinching and deliberately brushing up against another person)
- Persistent phone calls, text messaging e-mails etc asking for sexual relations
- Sexually derogatory or stereotypical remarks; persistent questioning about a person’s sex life
- Displaying sexually obscene or suggestive images or literature
- Sexual assault or forced sexual intercourse (rape)

4. The Law – Disability Harassment

Disability harassment is unlawful under the Disability Discrimination Ordinance, Chapter 487 of the Laws of Hong Kong.

Disability harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful.

4.1 What is Disability Harassment

Disability harassment consists of any unwelcome conduct (whether verbal or in writing) on account of a person's disability (past, present or imputed) where it can be reasonably anticipated that the person would be offended, humiliated or intimidated.

4.2 Examples of Disability Harassment

Examples of conduct which may amount to harassment on the grounds of disability include:

- Derogatory remarks or insults on the ground of disability – e.g. name calling which persons with a particular disability may find offensive or impolite;
- Display of slogans or other objects offensive to persons with disabilities;

- Jokes, banter, ridicule or taunts made on the ground of a person's disability;
- Excluding or marginalizing staff with disabilities from office activities;
- Unnecessarily picking on individuals on the ground of their disabilities.

5. The Law – Racial Harassment

Racial harassment is unlawful under the Race Discrimination Ordinance, Chapter 602 of the Laws of Hong Kong.

Racial harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful.

5.1 What is Racial Harassment

Racial harassment consists of any unwelcome conduct towards a person in relation to his or her race, or that person's near relative's race, in circumstances where a reasonable person would have anticipated that person would be offended, humiliated or intimidated. It also includes one or more persons engaging in conduct that creates a hostile or intimidating environment for another person on the ground of that other person's race or that other person's near relative's race.

5.2 Examples of Racial Harassment

Examples of conduct which may amount to racial harassment include:

- Racially derogatory remarks or insults – e.g. name calling which people of a certain racial group may find offensive or impolite;
- Display of graffiti or slogans or other objects offensive to certain racial groups;
- Racist jokes, banter, ridicule or taunts;
- Using a disparaging or offensive tone when communicating with people on the ground that they belong to a certain racial group;
- Avoiding or excluding a colleague on the ground that he or she belongs to a certain racial group;
- Loads or unrealistic performance targets on people on the ground of their race, colour, descent, national or ethnic origins;
- Unnecessarily picking on individuals from particular racial groups.

6. Guidelines

To comply with the requirements under the Race Discrimination Ordinance, Sex Discrimination Ordinance, Disability Discrimination Ordinance and Family Status

Discrimination Ordinance, all members of staff should take effective measures to maintain equal opportunities at the workplace. The basic principles are as follows:

6.1 Employment Practices

- 6.1.1 All job applicants should be considered equally regardless of race, sex, pregnancy, marital status, family status or disability unless a particular sex or absence of disability is a genuine occupational qualification of the job and/or different treatment is permitted by law.
- 6.1.2 Selection criteria for promotion, pay increase and training should be based on the staff's qualifications, experience, and performance without reference to race, sex, pregnancy, marital status, family status or disability.
- 6.1.3 In other aspects of employment (e.g. transfer, provision of benefits, services or facilities, terms of employment, dismissal, etc.), equal opportunity principles should also be applied to ensure that no discrimination is made on the ground of race, sex, pregnancy, marital status, family status or disability.

6.2 Staff Conduct

- 6.2.1 All staff members are responsible for their own actions and should not commit any unlawful discrimination or engage in potentially offensive behaviour that would amount to sexual, race or disability harassment, or race or disability vilification. Staff must not engage in such behaviour, or put themselves into a position where it can be perceived by a reasonable person that such activity is taking place.
- 6.2.2 No staff member should instruct, induce, threaten or knowingly aid others to commit any unlawful discriminatory acts.
- 6.2.3 All management staff have the responsibility of communicating KFBG's policy to their subordinates and maintaining a work environment which is consistent with the policy. They should also take prompt action whenever issues or complaints of unlawful discrimination arise.
- 6.2.4 No one should be victimized because he or she has complained about an unlawful discriminatory act or has been involved in the relevant proceedings.

6.3 Assessing Your Behavior

A good rule to follow is as follows: If there is any question in your mind about whether your own behavior or comments might constitute harassment, stop the behavior and don't make the comments.

Could your behavior be considered harassing? Consider the following:

- Would you change your behavior if your spouse, daughter, son or mother were within hearing distance?
- Would you feel uncomfortable if the same behaviour or comment were directed at you or someone in your family?

If you answered “yes” to either of these questions, your behaviour or comments could be considered harassment.

6.4 Conduct of Volunteers, Consultants, Agents & Contractors

All volunteers, consultants, agents and contractors of KFBG are expected to observe and comply with this policy in terms of the conduct expected of each of them.

7. Reporting Procedures

If any employee believes that he or she has been subjected to unlawful discrimination, harassment, vilification or victimisation, the employee is strongly encouraged to voice the concerns. The complainant is advised to tell the other person to stop; to inform their Head of Department or Human Resource Section either in writing or verbally.

Those receiving a complaint of this type should take it very seriously and take appropriate action and make a written record of events. The Head of GAD and the Executive Director must be informed in writing at the earliest opportunity. If the person receiving the complaint fails to take appropriate action to write and distribute a report and begin an investigation they may become vicariously liable.

To ensure a fair and proper handling of concerns, individuals who report alleged harassment are expected to identify themselves. Anonymous complaints will not usually be accepted. The organization’s objective will be to limit disclosure of the complainant’s identity to those involved in an investigation, including the alleged harasser and any relevant witnesses.

KFBG will take such a report very seriously and an investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation generally involves HR and the HoD of the complainant (or his/her assigned representative) and will include:

- a private interview with the person filing the complaint and with any witnesses if there are any, and
- an interview with the person alleged to have committed the inappropriate conduct.

When we have completed our investigation, we will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

Actions to be Taken

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is possible, we will also impose disciplinary action as appropriate, in accordance with the Employees' Handbook.

Any victimization of or retaliation and/or reprisals against an individual who in good faith reports or provides information in an investigation about behaviour that may violate this policy is unlawful and will be disciplined. On the other hand, malicious use of this procedure (for example, to lie about someone) will also not be tolerated and will be disciplined accordingly.

8. Staff Training and Communications

The Policy and Guidelines on Equal Employment Opportunities will be provided to all staff members of KFBG and HR will also arrange periodical training/briefing to all employees.

All volunteers, consultants, agents and contractors of KFBG will receive a copy of this policy and required to sign off before commencement of engagement.

9. Enquiry

If staff members have any questions on this policy, they should contact their section head / HoD or the Human Resources Section. If you choose to do it in writing, please mark on the envelope: "Strictly Confidential - To be opened by addressee only".

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