



JAKS GROUP OF COMPANIES

**COMPANY POLICY IN ELIMINATING
DISCRIMINATION IN THE WORLD OF WORK**

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COMPANY POLICY IN ELIMINATING DISCRIMINATION IN THE WORLD OF WORK

POLICY STATEMENT

Discrimination is any negative action, attitude or polarisation directed towards a person or group/s of people because of their individual characteristics or preferences of life. JAKS strongly believes that every person has the right to life, survive, compete, earn, equal treatment and equal opportunity in everything they do. Therefore, promoting equality by eliminating various forms of discrimination is essential.

JAKS aims to maintain a world of work that is safe, free from all forms of discrimination and to promote a professional, and productive work environment in which all individuals are treated with dignity and respect. Each individual has the right to work in a professional environment that promotes equal employment opportunities, equal treatment, free of discrimination-based violence or harassment.

JAKS will make every reasonable effort to ensure that all concerned are familiar with this policy and aware that any complaint in violation of such policy will be investigated and resolved appropriately. The Company takes allegations of discrimination seriously and shall respond rapidly, sensitively and effectively to any incidents of discrimination. Further, the Company will not tolerate discrimination-based violence or harassment. JAKS will impose such corrective action as is necessary, establish discrimination prevention programmes, including disciplinary action where appropriate. The Company shall not tolerate any form of discrimination of individuals. The Company's zero-tolerance position on discrimination applies to all aspects of employment.

This policy on eliminating discrimination in the world of work details how JAKS prevents, detects, responds to all forms of discrimination, including discrimination-based violence and harassment. The policy is not designed or intended to limit the Company's authority to discipline or to take remedial action for workplace conduct which the Company deems unacceptable, regardless of whether that conduct satisfies the definitions of discrimination.

For the purposes of this policy, "**world of work**" also includes job-related settings where the employee attends or participates as part of their job, such events or social events, celebrations and any other locations or settings where JAKS is conducting business.

1. INTRODUCTION

Discrimination in the world of work has been a growing concern at the national and international levels. Article 1 of the International Labour Organization (ILO) Convention No. 111, describes discrimination at the workplace as any “distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.”

Discrimination occurs when a person is treated less favourably than others because of characteristics that are not related to the person’s competencies or the inherent requirements of the job.

In Malaysia, discrimination is contrary to the norms and values of our society, where **Article 8 (1) of the Federal Constitution**, provides that all persons are equal before the law and entitled to the equal protection of the law.

Article 8(2) of the Federal Constitution also clearly states that “there shall be no discrimination against citizens on the grounds only of religion, race, descent, place of birth or gender...”.

In essence, **Article 8 of the Federal Constitution** prohibits discrimination in any form and in every area of human relationship.

In line with **Article 8(2) of the Federal Constitution**, Malaysia also has other laws to provide protection against discrimination at workplace, such as the Employment Act 1955 and the Industrial Relations Act 1967.

2. MALAYSIAN LAWS ON DISCRIMINATION IN THE WORLD OF WORK

2.1 EMPLOYMENT ACT 1955

With effect from 1.1.2023, under the **Employment Act 1955**, the Director General of Labour may inquire into and decide on any dispute between an employee and his employer in respect of **any matter** relating to discrimination in employment.

Section 69F of the Employment Act 1955 reads as follows:

“Discrimination in employment

69F. (1) The Director General may inquire into and decide any dispute between an employee and his employer in respect of any matter relating to discrimination in employment, and the Director General may, pursuant to such decision, make an order.

(2) An employer who fails to comply with any order of the Director General issued under subsection (1) commits an offence and shall, on conviction,

be liable to a fine not exceeding fifty thousand ringgit; and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.”

The Employment Act 1955 is clear in protecting pregnant female employees from being terminated.

Section 37(4) of the **Employment Act 1955** states:

“Any employer who terminates the service of a female employee during the period in which she is entitled to maternity leave commits an offence.

Provided that for the purposes of this section, such termination shall not include termination on the ground of closure of the employer’s business.”

On the other hand, **Section 41A** of the **Employment Act 1955** restricts termination of a female employee who is pregnant or is suffering from an illness arising out of a pregnancy.

“Restriction on termination of pregnant female employee

41A (1) Where a female employee is pregnant or is suffering from an illness arising out of her pregnancy, it shall be an offence for her employer to terminate her services or give her notice of termination of service, except on the grounds of—

- (a) willful breach of a condition of the contract of service under subsection 13(2);*
- (b) misconduct under subsection 14(1); or*
- (c) closure of the employer’s business.*

(2) Where the service of a female employee under subsection (1) is terminated, the burden of proving that such termination is not on the ground of her pregnancy or on the ground of illness arising out of her pregnancy, shall rest on the employer.”

2.2 INDUSTRIAL RELATIONS ACT 1967

The **Industrial Relations Act 1967** aims to promote and maintain industrial harmony and provide regulation of the relations between employers and workmen (men and women) and their trade unions. Employers are prohibited from committing acts of discrimination against employees.

Section 5 (1) (c) Industrial Relations Act 1967 provides that employers shall not discriminate against any person regarding employment, promotion, any condition of employment or working conditions on the ground that he (man and woman) is or is not a member or officer of a trade union.

3. DEFINITION

Discrimination is unjustly or unfairly denying equal treatment or opportunity to individuals or groups with respect to the terms, conditions, or privileges of employment based on any of the characteristics listed below. This unfair denial of equal treatment or opportunity can include but is not limited to hiring, firing, promoting, disciplining, scheduling, training, or deciding how to compensate an individual or group.

Discrimination occurs when a person is treated less favourably than others because of characteristics that are not related to the person's competencies or the inherent requirements of the job. Treating a person less favourable can include harassing or bullying a person.

Discrimination and/or intersectional discrimination arises where unfair treatment is predicated on any of the following actual or perceived characteristics:

- Race, colour, ethnic or national origin;
- Age;
- Religion;
- Sex, sexual orientation, pregnancy or related medical conditions;
- Gender identity, family status, marital status;
- Nationality, citizenship, ancestry;
- Political opinion;
- Social origin;
- Disability.

Intersectional discrimination happens when two or multiple grounds operate simultaneously and interact in an inseparable manner, producing distinct and specific forms of discrimination.

The above is not an exhaustive list as it is not possible to list all the circumstances that may constitute discrimination in violation of this policy, but the above are some instances that may be considered as discrimination. However, any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof is not deemed to be discrimination.

Where the context so requires, the use of the masculine pronoun shall be deemed to include usage of the feminine and/or neuter pronoun where appropriate.

3.1 DISCRIMINATION MAY BE DIRECT OR INDIRECT

Direct discrimination is when an individual is treated unfairly because of a characteristic the individual has, or is assumed to have such as race, age, gender, etc.

For example, making offensive 'jokes' about another ones' racial or ethnic background, gender, sexuality, social origin, age, marital status or disability, etc. using selection processes based on irrelevant attributes such as age, race or disability rather than on skills really needed for the job. A woman with the same experience and qualifications is paid less than a man doing the job of the same value.

Indirect discrimination occurs when company's policies, procedures or rules which apply to everyone and appear to be neutral but affect people with certain characteristics and they are put at a disadvantage when compared with those who do not share it.

For example, posting an advertisement that fixes the height or gender or preferential language that is not an inherent requirement of the job and indirectly disadvantages a certain group or individuals. On its surface, the requirement appears to be workable to all groups but looking at the effect, it is discriminating against certain people.

Discrimination- based violence and harassment means a course of inappropriate comments or action against an individual in a workplace that is known to be unwelcomed. This would include, without limitation, unwelcomed remarks or gestures or conduct that may be detrimental to an individual's physical, or psychological dignity, or racial, or workplace bullying or verbal harassment.

4. SCOPE AND APPLICATION

This policy applies to:

- All employees regardless of job position, including full-time, part-time, casual or temporary staff.
- All individuals who attend at the company workplace, including but not limited to stakeholders, suppliers, vendors, external contractors, consultants, partners, visitors, and other parties engaged by the company.
- All contract, commission workers, apprentices and work experience internships.
- All aspects of employment practices, recruitment and selection and promotions; conditions and benefits; access to training and employment opportunities; remuneration for work of equal value; task allocation; shifts; hours; leave arrangements; workload; equipment and transport; at work-related functions (including social functions and celebrations); while on trips and attending conferences- whenever and wherever staff may be as a result of their duties.
- Staff treatment of other staff, of clients, and other members of the public encountered in the course of their duties.
- All means of communication, including email and other electronic communication channels.

5. MANAGEMENT'S ROLES AND RESPONSIBILITIES

It is the responsibility of the Management and the Human Resources Department to adapt this policy to the country's legal environment and to ensure that this policy is fully enforced.

These steps include taking the following measures:

- To encourage diversity and inclusivity by creating an inclusive world of work that values and respects differences.

- To provide opportunities for employees to share their experiences, ideas and perspectives.
- To encourage open communication and foster a culture of respect and equality.
- To encourage gender equality by addressing and challenging gender stereotypes.
- To create opportunities for women and members of less represented/ more vulnerable groups to advance in leadership positions and support their career development.
- To promote work life balance for all.
- To tackle the gender pay gap.
- To tackle occupational segregation.
- To recognise and address unconscious biases that can contribute to a culture that enables violence and harassment.
- To provide training and education on diversity, inclusion, and unconscious bias for all employees.
- To promote empathy and understanding among employees to create a world of work that values differences and respects all employees.
- To ensure all employees are aware and familiar of the policy.
- To post the policy in prominent place(s) at the workplace and/or ensure employees have access to the policy on the Company website.
- To ensure that the policy is communicated and integrated in company procurement forms to external contractors, customers and other persons who attend the company workplace.
- To establish a process for reporting and responding to incidents of workplace discrimination.
- To ensure process for reporting and responding to incidents of workplace discrimination is properly communicated, maintained and followed.
- To ensure the policy is reviewed at least on an annual basis.

6. EMPLOYEES' RIGHTS AND RESPONSIBILITIES

All employees are entitled to:

- Recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics.
- Work free from discrimination.
- The right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimized.
- Remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to life, health or safety due to discrimination based-violence and harassment, without suffering retaliation or other undue consequences, and the duty to inform management;
- Reasonable flexibility in working arrangements, especially where needed to accommodate their pregnancy and health conditions, immediate family responsibilities, disability, religious beliefs or culture.

All employees must:

- Observe the regulations in this policy.
- Avoid gossip and respect the confidentiality of complaint resolution procedures.
- Treat all with dignity, courtesy and respect.
- Refrain from any act of discrimination towards other individuals.

The above is not an exhaustive list as it is not possible to list all the circumstances.

7. REPORTING DISCRIMINATION

It should be considered as everyone's responsibility to immediately raise a concern in conformity with this policy as soon as the individual is aware of an unacceptable behaviour.

JAKS expects any individual to speak up any time he or she witness a discriminatory behaviour. If you are aware of behaviour that you believe or suspects violates this policy, please take the following actions immediately:

- Speak with your supervisor/ line manager or to contact Human Resource or Legal Executive.
- Fill up the complaint form as provided at Appendix 1.
- Once informed, supervisor/ line manager or Human Resource or Legal Executive is required to promptly report within 24 hours any violation or suspected violation of this policy to the Human Resource or Legal and Assistant Manager.
- If the person accused of discrimination is your immediate supervisor or line manager, you may submit your complaint directly to the Human Resource or Legal and Assistant Manager to handle the complaint.
- If the above said option seems difficult or not appropriate given the sensitivity of the situation, the employee should contact the General Manager or submit the complaint via the Company's whistle blower policy or company's complaint/grievance channel to bring up the complaint.
- You are not obliged under this procedure to complain directly to the offending individual.

8. INVESTIGATING THE COMPLAINT

The Human Resource or Legal Department will thoroughly investigate all reported suspected violations of this policy. For each reported violation, a separate investigation officer/team will be formed. The investigating officer /team cannot include any individual who has/likely has conflict of interest or would otherwise be unable to approach the matter with fairness and independence.

When a designated person receives a complaint of discrimination, he/she will:

- Immediately record the dates, times and facts of the incident(s).
- Ascertain the views of the victim as to what outcome he/she wants.
- Ensure that the victim understands the Company's procedures for dealing with the complaint.

- Discuss and agree the next steps: either informal or formal complaint
- Keep a record of all discussions.
- Respect the choice of the victim.
- Ensure that the victim knows that he/she can lodge the complaint outside of the Company pursuant to Section 69F of Employment Act 1955.

8.1 INFORMAL COMPLAINTS MECHANISM

If the victim wishes to deal with the matter informally, the designated person will facilitate a discussion between both parties to achieve an informal solution which is acceptable to the complainant. The victim may seek the assistance of a trade union representative to facilitate an amicable solution if required.

8.2 FORMAL COMPLAINTS MECHANISM

If the complainant wishes to make a formal complaint or if the informal complaint mechanism has not led to a satisfactory outcome for the complainant, the formal complaint mechanism should be used to resolve the matter.

The designated person who initially received the complaint will refer the matter to the human resource or legal and compliance manager to initiate a formal investigation.

Raising a concern in good faith will not expose the person who raised it to retaliation. Any concern reported in *bad faith* may result in disciplinary action(s) as per the Company's Disciplinary Policy.

8.3 INVESTIGATION PROCEDURE OF A FORMAL COMPLAINT

- i) If informal efforts are not appropriate or successful, the investigating officer/team will investigate to determine whether discrimination has occurred.
- ii) During the investigation, the investigating officer/team may inform the individual alleged to have engaged in discrimination of the complaint and may give the individual the opportunity to respond to the allegations and to submit names of individuals who the employee believes have information on the relevant investigation.
- iii) The investigation may include meeting with the complainant, the accused and other individuals who may have relevant information. Relevant documents may also be reviewed. The investigation will be conducted promptly, thoroughly, impartially and in as confidential a manner as is possible consistent with proper investigation of the complaint. The interview with parties will be conducted separately.
- iv) At the conclusion of the investigation, the investigating officer/team shall decide whether discrimination occurred, recommendations if any, and produce a report.

- v) If the investigation establishes that discrimination has occurred, the company may take prompt and appropriate action. This may include corrective action designed to end and to remedy the discrimination and to prevent it from reoccurring. Action may include imposition of discipline on the discriminator, ranging from reprimand to termination if that person is an employee.
- vi) If the discriminator is an employee of a vendor or any other employing entity, the company may inform the employing entity of the investigations and findings, and request further disciplinary actions be taken by that entity. The company will take all possible steps to ensure that the employee is no longer subject to the discrimination.
- vii) JAKS shall inform the complainant or the accused of the outcome of the investigation and, in general terms, of any measures taken to correct the discrimination.
- viii) If the investigation establishes that discrimination has occurred, the company will ensure that the discrimination has not resumed, and that neither the complainant nor any other individual has been subjected to retaliation for having complained of the discrimination.
- ix) If the investigation establishes that there was no discrimination, the company may inform the complainant or the accused the outcome of the investigation and that the company will not proceed with the matter any further action.

**[Note]

Process of Investigating the Complaint is attached as Appendix 2

Process of Formal Complaints Mechanism is attached as Appendix 3

9. FALSE COMPLAINTS OR FALSE INFORMATION REGARDING DISCRIMINATION IS PROHIBITED

It is a violation of this policy for anyone to make a false accusation of discrimination which is found untrue and or otherwise unsupported by facts after investigations. Such complaints which are found to be frivolous, vexatious or scandalous may be investigated and may lead the Company to institute disciplinary process against the complainant.

10. SANCTIONS AND DISCIPLINARY MEASURES

All employees are covered and subjected to this policy. Any employee who violates this policy shall be disciplined and/or subjected to corrective action.

Any employee found to have committed an act of discrimination at the workplace may be subject to punishment at the company's discretion, which may include up to dismissal after the company's disciplinary processes.

The type of punishments may include amongst others the following:

- Dismissal without notice.
- Downgrading/Demotion of the employee.
- Impose any other lesser punishment which company deems just and fit, and where the punishment of suspension without wages is imposed, shall not exceed a period of two weeks (Section 14(1)(c) Employment Act 1955).
- Verbal or written warning.

The nature of the punishment will depend on the gravity and extent of the discriminative action. Suitable deterrent sanctions will be applied to ensure that incidents of discrimination are not treated as trivial.

11. RETALIATION

JAKS protects the rights, prohibits retaliation and shall not discriminate against any individual because such individual has opposed any act made unlawful or because such individual made a complaint, testify, assisted or participated in any manner in an investigation, proceeding or hearing under this policy.

Acts of retaliation occurs when any adverse action is taken against an employee as a result of his or her having raised a concern about a discriminatory practice. Such acts of retaliation are taken to punish the employee for raising a concern or to discourage future attempts to raise concerns.

Acts of retaliation may include:

- Termination
- Demotion
- Withholding of promotion or other financial incentives
- Failure to invite an employee to a meeting;
- Refusal to authorize a training or travel;
- Harassment, bullying, or violence; or-
- Discrimination

12. CONFIDENTIALITY

The company, the investigating officer /team and any parties involved in the complaint process must keep all information confidential and not disclose it to others or discuss the complaint with anyone.

The complainant and those that stand accused of a complaint are prohibited from discussing the matter with anyone including other employees.

Discussing the complaint before and after it has been resolved is prohibited.

13. AMENDMENTS TO THE POLICY

JAKS reserves the right at its discretion to review or amend this policy from time to time, as and when it is necessary, in line with any new development in legislation or practise and shall notify all employees when such amendments have been made.

JAKS should consult with employees' association or trade unions or employees when this policy is reviewed or updated.

14. INFORMATION ABOUT THIS POLICY

POLICY ON ELIMINATING DISCRIMINATION AT THE WORKPLACE	Effective date:
Inception date:	Next Review:
Policy owner:	Approved by:
Pages:	

15. EMPLOYEE ACKNOWLEDGEMENT OF POLICY

I acknowledge that I have received a copy of the JAKS's **POLICY ON ELIMINATING DISCRIMINATION IN THE WORLD OF WORK.**

I understand that I am expected to read, understand, and comply with the Policy which represent part of my terms and conditions of employment with the Company.

I understand that if I have any question regarding the contents of this Policy, I should ask my supervisor or the Human Resources Department for clarification and assistance.

(Employee Signature)

Name:

NRIC NO.:

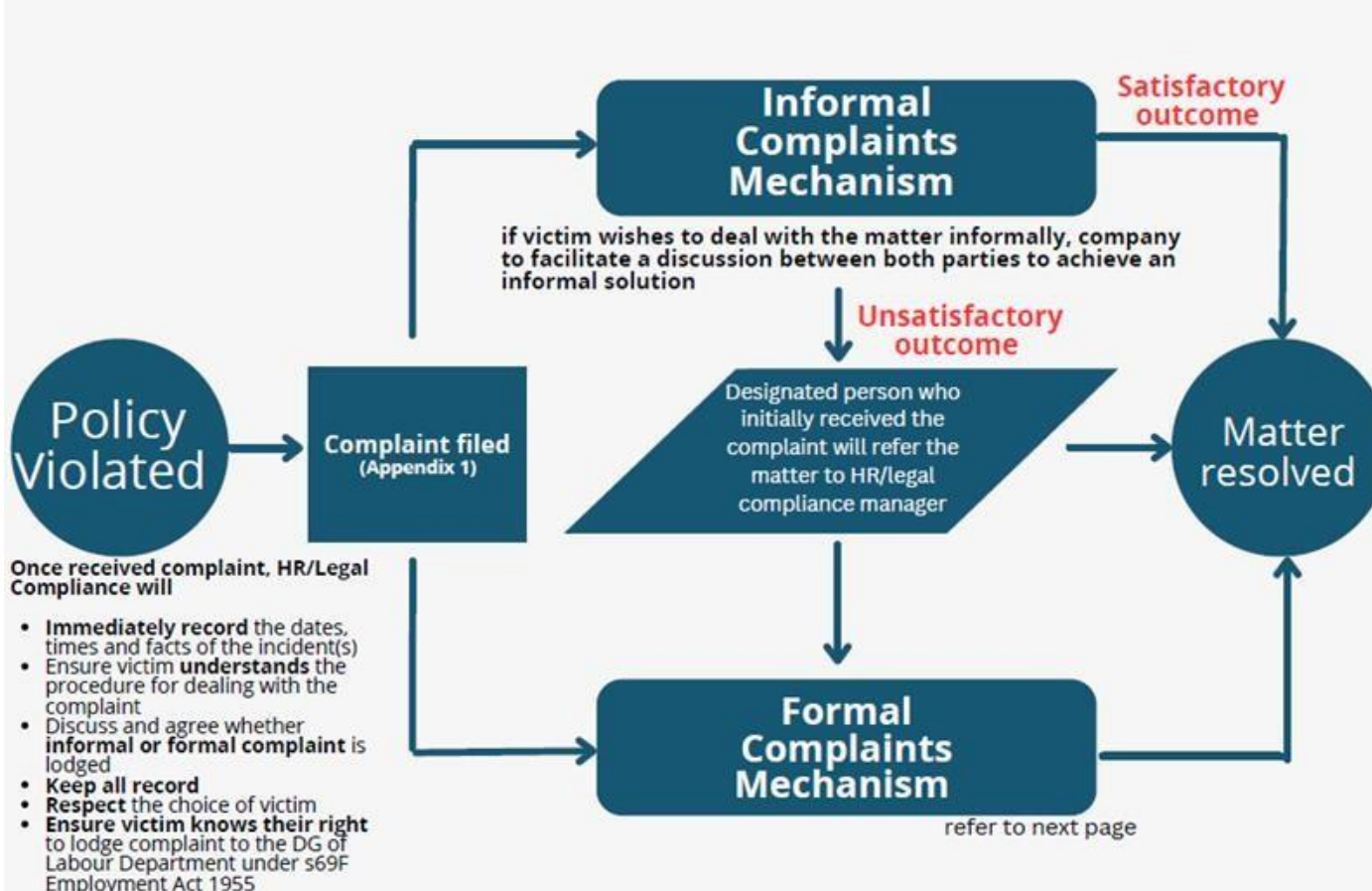
Employee No.:

Date:

**COMPLAINT FORM
(RELATING TO DISCRIMINATION)**

NAME:	DATE:
COMPANY:	
JOB TITLE:	DEPARTMENT:
DETAILS OF EVENT LEADING TO COMPLAINT Date, Time and Location of Event	
Witnesses, If Applicable	
Account Of Event – Please describe the event in detail. Please also describe any incidents giving rise to the complaint.	
SIGNATURES (Your signature below indicates that the information you have provided in this form is truthful)	
Employee Signature:	Date:
Received by:	Date:

Investigating the Complaint



Investigation Procedure of Formal Complaint

