

Reimagining Equality

**End All Forms of
Discrimination
in the Workplace**

**A Policy Wishlist From
The Community**

July 2021



Contents

Introduction	1
The Current Situation	2
Challenges Faced by Participants & Policy Wishlist on General Discrimination	4
Challenges Faced by Participants & Policy Wishlist on Pregnant Women & Female Caregivers	10
What More Can Be Done?	12
Conclusion	13

Introduction

In the first half of 2021, AWARE held a series of discussions with workers who had experienced workplace discrimination in Singapore. Seventeen participants spoke about their varied experiences of workplace discrimination—based on gender, race, nationality, sexual orientation, marital status, pregnancy and caregiving responsibilities—as well as their ideas for how the government might address these issues in its White Paper on gender equality.

Key concerns raised by participants included: low public awareness of what constituted workplace discrimination, the toxic culture of some workplaces, unhelpful human resource departments and the absence of accountability for perpetrators of workplace discrimination.

Separate discussions were also held for workers who had experienced discrimination as a result of their pregnancies and family/caregiving responsibilities. Participants in this group highlighted concerns including: physical and psychological-based safety issues for pregnant workers, lack of job security and convoluted systems for reporting discrimination.

Together with AWARE's Workplace Harassment and Discrimination Advisory (WHDA) team, the participants brainstormed a variety of policy recommendations to tackle different forms of discrimination in Singapore's workplace.

The Current Situation

General Discrimination

Singapore currently lacks comprehensive and concrete anti-discrimination legislation. The Ministry of Manpower (MOM) has stated that anti-discrimination laws in other countries have “not necessarily led to employment outcomes better than those in Singapore”, adding that across-the-board penalties (e.g. revoking work pass privileges and naming-and-shaming employers) have been reinforced and strengthened.¹

Discrimination Related to Pregnancy and Caregiving Responsibilities

Singapore has not adopted specific legislation that prohibits pregnancy discrimination in hiring practices, during employment and after maternity leave. Under the Employment Act, it is an offence for an employer to dismiss an employee during her maternity leave. However, there are no protections for pregnant employees facing harassment and/or unfair dismissals upon announcing their pregnancy. Examples of such behaviours are unfavourable changes to performance deliverables, the rescinding of employment offers and termination during or at the end of a probation period upon the announcement of pregnancy.

Current maternity protections do not extend to mothers returning from maternity leave—e.g. an entitlement to return to the same position at the same pay. Additionally, there is no legal protection or required accommodations for breastfeeding mothers. While the law states that it is not an offence to breastfeed in public if the woman is “decently clad and she does not expose her breast more than is necessary to breastfeed her child”, it does not include a provision obligating employers to provide a designated clean, private area and scheduled times to express breast milk during the work day.

¹ “Protecting and Supporting Seniors Who Face Discrimination.” Ministry of Manpower Singapore, March 4, 2020. <https://www.mom.gov.sg/newsroom/press-replies/2020/0304-protecting-and-supporting-seniors-who-face-discrimination>.

The Current Situation

Current Legislation and Guidelines

Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) recommends that employers abide by the Tripartite Guidelines on Fair Employment Practices, which advise that employers adopt non-discriminatory hiring practices for job advertisements, application forms and interviews. For example, the guideline states that job advertisements and applications should not include such criteria as race, religion, gender, family responsibilities or marital status. MOM and TAFEP have stated that employers who do not abide by the Tripartite Guidelines will "have their applications for employment passes subject to scrutiny", and may be placed on a watchlist.²

The Singapore government has also implemented the Fair Consideration Framework (FCF), a guideline specifically targeting discrimination against local Singaporeans. The FCF states that employers in Singapore must consider the Singaporean workforce fairly for job opportunities. Employers who violate the FCF may be subject to prohibitions on applying for new work passes, and be placed on a watchlist. The FCF also states that employers should not discriminate on characteristics that are "not related to the job", such as age, gender or race.

Through the Work-Life Grant, the government has adopted an incentive-based approach to get employers to offer formal flexible work arrangements (FWAs). In April 2021, the government also launched a new Tripartite Standard on Work-Life Harmony. This encourages companies to: establish a policy to support workers' mental health needs and prevent burnout; appoint a senior management member to champion work-life balance; offer employees enhanced leave benefits such as extended childcare leave, and review the effectiveness of work-life programmes through regular surveys or focus group discussions.

² "Legal and Punitive Measures in Place to Tackle Workplace discrimination". Ministry of Manpower Singapore, April 28, 2018. <https://www.mom.gov.sg/newsroom/press-replies/2018/0428-legal-and-punitive-measures-in-place-to-tackle-workplace-discrimination>

Challenges Faced by Participants & Policy Wishlist on General Discrimination

A. Participants faced the following challenges relating to understanding discrimination and navigating legal rights:

- Lack of education and attention paid to discriminatory behaviors beyond the hiring stage
- Uncertainty surrounding the current external recourse options and enforcement powers, such as TAFEP
- Lack of comprehensive legal protections for employees experiencing workplace discrimination

These challenges influenced their decision not to make a report.

Discrimination during hiring and term of employment:

Padma, 30, reported facing discrimination during the hiring process due to her marital status, while Rachel*, a 37-year-old who had experienced a miscarriage, was not afforded any accommodations at her workplace.*

Zoe, 44, recounted her experiences of being asked intrusive and personal questions during hiring, such as whether she intended to get pregnant. She felt that the interviewer, who was an American, took advantage of Singapore's lack of legislation, since interviewers cannot get away with this in the U.S.*

Rachel was also verbally harassed by an older male co-worker. He publicly stated that he did not want her to attend a meeting as she was eight months pregnant. She clarified that she was fit to work, and did not see how her pregnancy would impact the meeting. Rachel's female boss responded by publicly reprimanding Rachel and telling her to apologise to him. No action was taken following this distressing incident. She eventually quit her job after continuing to experience more discriminatory behaviours.

Challenges Faced by Participants & Policy Wishlist on General Discrimination

1

Recommendations

Introduce comprehensive anti-discrimination legislation, which legislates:

i. A formal definition of workplace discrimination

- Providing clear examples and illustrations of different types of discrimination, including less stereotypical types of discrimination;
- Specifying protected categories such as race, gender, sexual orientation, age, physical and/or mental disability, marital status, family and caregiving responsibilities, pregnancy, breastfeeding, religion and nationality;
- Accompanied by public education campaigns and programmes that reinforce this expanded definition to employers, employees and students, and tackle negative stereotypes based on age, race, gender and marital status.

ii. The responsibility of employers to manage and prevent discrimination and discriminatory practices during both the hiring process and term of employment, including stages such as promotions, performance evaluations and retrenchment;

iii. Protection for workers from retaliation, including confidentiality of reporting, from their current harassers—whether they are in positions of power, employers or potential future employers;

iv. Protections for workplace discrimination extended to freelancers, job applicants, interns, volunteers and self-employed persons (SEPs).

Participants demonstrated support for a national anti-discrimination law and viewed legislation as a necessary catalyst for change. Additionally, they raised the possibility of implementing blind recruitment as a temporary measure to reduce discriminatory hiring practices while the government deliberated adopting the legislative approach.

Challenges Faced by Participants & Policy Wishlist on General Discrimination

2

Recommendations

Implement blind recruitment during application and interview processes, focused on skills and experiences rather than personal details such as age, gender, caregiving responsibilities and marital status. Prohibit employers from enquiring about personal characteristics (e.g. age, race, gender, pregnancy status, marital status) before awarding a contract to an employee.

Challenges Faced by Participants & Policy Wishlist on General Discrimination

B. Participants raised the following challenges relating to anti-discrimination training:

- Lack of specialised anti-discrimination training for HR workers to understand conscious and unconscious biases, and to handle complaints in a sensitive and efficient manner
- Uncertainty surrounding the types of behaviours that may be discriminatory
- Lack of awareness of internal reporting processes

The need for mandatory training:

Hui Min, a 34-year-old HR personnel, stressed the importance of separate mandatory training for employees and employers to create awareness on policies, processes and investigations. Based on her experience, "it is not common for employees to be aware of the code of conduct even if a company has one, or for employees to make the effort to read it". She also raised the concern that codes of conduct do not equip HR professionals with the necessary skills or guidelines to handle harassment reports.*

3

Recommendations

Ensure that both employers and employees undergo mandatory anti-discrimination training, conducted by an external third-party organisation or by companies themselves:

- HR professionals should be required to attend specialised anti-discrimination training programmes on identifying conscious and unconscious biases, and on handling investigations in an efficient and sensitive manner, preferably on an annual basis;
- Employees should be taught how to recognise workplace discrimination, access internal anti-discrimination policies and identify recourse options available to them both internally and externally.

Challenges Faced by Participants & Policy Wishlist on General Discrimination

C. Participants raised the following challenges relating to reporting to TAFEP:

- Lack of confidentiality; TAFEP's lack of enforcement powers—deemed especially detrimental to employment prospects in SMEs
- Fears of experiencing retaliation when company is informed of complaint
- Often tough to present documentation to prove discriminatory behaviors

Why participants chose not to report to TAFEP:

Meilin, 34, described an imbalance in power structures. She claimed that, without clear legislation or enforcement from TAFEP, companies find ways to explain their actions. Participants agreed with this, with Shawn*, a 28-year-old male, adding: "Especially if the power balance leans towards the big organisation, it can be quite scary, as we might be the lone small fish. Sometimes we are busy finding new jobs or trying to survive, and your reputation is at stake even if you are truthful."*

Reporting—what is the next step? How do you prove the discrimination? The documentation is sometimes not easy to collect, for example when the information is verbal. To win the case you need to have evidence and justification.

—Helen, 44, female sales employee.
Multiple participants echoed this sentiment.*

Challenges Faced by Participants & Policy Wishlist on General Discrimination

4

Recommendations

Establish an external regulatory body to handle investigations on discriminatory practices and audit HR policies and processes in companies, particularly in SMEs and start-ups:

- This regulatory body should have trauma-informed and legal-trained employees who are government-funded and able to enforce corrective action where applicable. These situations include cases where discrepancies are observed in investigation processes, or when subtle discriminatory behaviours occur, such as sudden poor performance reviews once an employee announces pregnancy;
- All services provided by this external body should be confidential unless the victim consents to further action, such as investigation. The authority should provide protection from retaliation;
- An alternative to establishing a new regulatory body would be to expand the powers of TAFEP/TADM to allow the Tripartite agencies to fulfill this role.

Challenges Faced by Participants & Policy Wishlist on Pregnant Women and Female Caregivers

D. Participants raised the following challenges in relation to pregnancy discrimination:

- Poor performance evaluations during and after pregnancy, despite rave reviews prior to announcing pregnancy
- Increased workload after returning from maternity leave
- Lack of designated areas to pump breast milk
- Termination of employment upon returning from maternity leave

Parenting leave and accommodations for pumping:

Anisah, a 43-year-old working at an institute of higher learning, recounted the different reactions she and a male colleague experienced when they returned from maternity and paternity leave respectively. After he came back from paternity leave, he got a promotion. Following her return to work from maternity leave, she was expected to complete an increased workload and was eventually penalised in her year-end review.*

Rachel, 37, had to pump in the office bathroom because there was no designated private room for this. This was unpleasant and unhygienic.*

Despite the significant disparity in lengths of maternity and paternity leave, no consideration was made for her accumulated workload over the four months, nor in her performance reviews, leaving her to complete a year's worth of work within one semester. She agreed that equalising maternity and paternity leave may allow for consistent policies and review processes for women and men.

Challenges Faced by Participants & Policy Wishlist on Pregnant Women and Female Caregivers

5

Recommendations

Introduce anti-discriminatory protections for returning mothers:

- Extended maternity protections to returning mothers against unfair dismissal—that on an employee’s return from maternity leave, she has the right to return to the same job, with the same salary.
- Adopt legislation that requires employers to provide comfortable and hygienic breastfeeding accommodations, including designated breastfeeding periods and spaces in the workplace.

6

Recommendations

Equalise and mandate maternity and paternity leave to prevent unequal treatment of mothers.

What more can be done?

- 1.** The Singaporean government should implement a fully paid “miscarriage leave”, which can be taken by women and their partners to grieve their loss. For many expectant parents, a miscarriage is deeply devastating, and it is unfair for workers and their partners to tap into their sick leave to cope with such crises. This should also extend to emergency terminations and abortions:
 - New Zealand has implemented a three-day, paid bereavement leave for workers who have experienced miscarriage.
 - India has the Maternity Benefit (Amendment) Act, which gives six weeks of paid leave for women experiencing a miscarriage at any stage of pregnancy.
 - The Philippines has allowed 60 days of paid leave for a worker experiencing a miscarriage at any stage of pregnancy.
 - Taiwan has implemented a conditional paid miscarriage leave between five days to four weeks, depending on how far along the pregnancy was.

- 2.** Legislate the recommendations in the new Tripartite Guideline on Work-Life Harmony, including:
 - Granting workers the right to request flexible working arrangements, which can only be refused on reasonable business grounds;
 - Increasing support for extended leave schemes, including eldercare leave and menstruation leave;
 - Providing a written response to requests within a specified time limit, outlining whether the request is approved or refused.

- 3.** Take issues such as menstrual cramping into account in companies’ leave and flexible working arrangement policies

Conclusion

The Singapore government must bolster its efforts to aid women's development by addressing the gaps in policies that would protect against discriminatory behaviour in the workplace. We urge the government to consider the policy recommendations outlined in this wishlist and to tackle discrimination that disproportionately impacts women in the forthcoming White Paper.