

TRIPARTITE COMMITTEE ON WORKPLACE FAIRNESS

Interim Report
February 2023



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EXECUTIVE SUMMARY

STATE OF WORKPLACE FAIRNESS

1. The tripartite partners' journey towards upholding workplace fairness began more than two decades ago. Early efforts focused on education and shaping mindsets. As awareness and understanding of workplace fairness improved, we began coupling education with enforcement against discriminatory acts by employers. Singapore has made progress under this approach.
2. The latest Ministry of Manpower (MOM) Fair Employment Practices Survey (2021) found that the proportion of resident job applicants who said that they experienced discrimination during their job search had fallen from 43% in 2018 to 25% in 2021. The proportion of resident employees who said that they had experienced discrimination at work was 8% in 2021¹, lower than the EU average of 11%.²
3. Nevertheless, workplace discrimination remains a concern amongst some jobseekers and employees in Singapore. We can do more to ensure that we have a strong and robust system in place to uphold workplace fairness.
4. The Tripartite Committee on Workplace Fairness (the "Committee") was formed in July 2021 to review the options to strengthen workplace fairness. The Committee agreed that legislation can enhance the current framework in the following ways:
 - a. **Strengthen the overall framework for workplace fairness.** Enacting legislation reinforces our stance that there is no place for discrimination in Singapore.
 - b. **Provide additional redress for the worker.** Legislation can provide individuals an additional channel of redress for harm done due to workplace discrimination, beyond wrongful dismissal.
 - c. **Provide a wider range of enforcement levers against discriminatory acts by employers.** The enforcement lever used currently is the curtailment of work pass privileges. With legislation, a wider range of levers – including remedial actions, financial penalties against both the company and persons responsible for the discriminatory act, and work pass curtailment – is available, so that appropriate action can be taken against those responsible for breaches of the legislation.
 - d. **Formalise mediation as the preferred approach to resolving disputes relating to workplace discrimination.** Singapore's framework for resolving workplace disputes centres on mediation rather than litigation. This approach should be adopted for workplace discrimination claims under the new legislation.

¹ Source: Fair Employment Practices Survey, Manpower Research and Statistics Department (MRSD), Ministry of Manpower, 2021.

² Source: European Working Conditions Telephone Survey, Eurofound, 2021.

APPROACH TAKEN TO DEVELOP RECOMMENDATIONS

5. The Committee drew on Singapore's experience implementing the Tripartite Guidelines on Fair Employment Practices (TGFEP), and also examined workplace anti-discrimination legislation in other jurisdictions. To better understand the needs and views of different segments of society, the Committee also consulted widely with employer groups, unions and HR professionals.
6. The recommendations of the Committee are guided by the following principles:
 - a. Introduce workplace fairness legislation to complement the TGFEP and not replace it. The TGFEP remain an important part of our workplace fairness framework that hold out the positive principles of fairness for employers.
 - b. Scope legislation appropriately to foster strong employer ownership and deliver good workplace outcomes for employees.
 - c. Give more assurance to workers that they can report workplace discrimination or harassment without fear of retaliation.
 - d. Support national objectives and permit genuine occupational needs to be considered in employment decisions.
 - e. Preserve workplace harmony and a non-litigious workplace culture, with mediation as the preferred approach to resolve disputes.
 - f. Ensure that discriminatory employers face appropriate enforcement action, and provide redress to individuals who have been discriminated against.

RECOMMENDATIONS

Key Thrust A: Strengthen protections against workplace discrimination

7. Recommendation 1: Prohibit workplace discrimination in respect of the following characteristics: (i) age, (ii) nationality, (iii) sex, marital status, pregnancy status, caregiving responsibilities, (iv) race, religion, language, (v) disability and mental health conditions ("protected characteristics").
8. Recommendation 2: Retain and enhance the TGFEP to work in concert with legislation. The TGFEP will uphold overarching principles of fair and merit-based employment and provide protection against all forms of workplace discrimination.
9. Recommendation 3: Cover all stages of employment i.e. the pre-employment (e.g. recruitment), in-employment (e.g. promotion, performance appraisal, training selection) and end-employment (e.g. dismissal) ("employment decisions").

10. Recommendation 4: Prohibit the use of words or phrases in job advertisements that indicate a preference for a protected characteristic.
11. Recommendation 5: Legislate the job advertisement requirement for submission of Employment Pass and S Pass applications under the existing Fair Consideration Framework.
12. Recommendation 6: Prohibit retaliation against those who report cases of workplace discrimination or harassment.
13. Recommendation 7: Enhance the TGFEP to provide protection against discrimination for workers engaged in work through service buyers (e.g. property management companies) and intermediaries (e.g. platform companies providing matching services).

Key Thrust B: Provisions to support business/organisational needs and national objectives

14. Recommendation 8: Allow employers to consider a protected characteristic in employment decisions if it is a genuine and reasonable job requirement.³
15. Recommendation 9: Exempt small firms (<25 employees) from the legislation for a start, with a view to tighten this exemption in five years.
16. Recommendation 10: Allow religious organisations to make employment decisions based on religion and religious requirements (i.e. conformity with religious beliefs and practices).
17. Recommendation 11: Allow employers to favour persons with disabilities and seniors (≥55 years) over other groups in hiring decisions, even if another candidate may be equally or more qualified.

Key Thrust C: Processes for resolving grievances and disputes while preserving workplace harmony

18. Recommendation 12: Require employers to put in place grievance handling processes. Employers should also protect the confidentiality of the identity of persons who report workplace discrimination and harassment, where possible.
19. Recommendation 13: Require compulsory mediation for workplace discrimination claims at the Tripartite Alliance for Dispute Management (TADM) first, with adjudication at the Employment Claims Tribunals (ECT) as a last resort.
20. Recommendation 14: Ensure that Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) continue to provide advice and assistance to workers who experience discrimination and advise employers on improving employment practices.
21. Recommendation 15: Ensure that unions continue to play a constructive role in dispute resolution for workplace fairness. Allow unions to support their members in the claims process similar to other employment claims today.

³See illustrations of what are considered genuine and reasonable job requirements at <https://www.tal.sg/tafep/employment-practices/recruitment/job-advertisements>.

Key Thrust D: Ensuring fair outcomes through redress for victims of workplace discrimination, and appropriate penalties for breaches

22. Recommendation 16: Encourage parties to explore non-monetary remedies, such as reinstatement of an employment offer or providing an apology letter, where practicable.
23. Recommendation 17: Allow monetary compensation of up to \$5,000 for pre-employment claims; and up to \$20,000 for non-union members and \$30,000 for union-assisted claims, for in-employment and end-employment claims, as with other employment claims today.
24. Recommendation 18: Empower the ECT to strike out frivolous or vexatious claims, or award costs against such claimants.
25. Recommendation 19: Allow the State to concurrently conduct investigations on claims that involve suspected serious breaches of the workplace fairness legislation, with a view to taking enforcement action.
26. Recommendation 20: Provide a range of penalties including corrective work orders, financial penalties and work pass curtailment that can be imposed against firms and/or culpable persons, depending on the severity of breach.

CONCLUSION

27. The Committee's recommendations aim to entrench the fair employment standards that we have built up over the years, and strengthen key areas in our framework. This legislation complements the existing TGFEP and will be a significant step in enhancing our workplace fairness framework. However, it is not a panacea. Employers, workers, unions and the Government must continue to work hand in hand to shape and uphold fair and progressive employment practices in Singapore.

INTRODUCTION

STATE OF WORKPLACE FAIRNESS

1. Singapore is a multi-racial and multi-religious society, where individuals from different backgrounds interact with one another every day. Our workplaces must adopt fair and merit-based practices, so that all employees have the opportunity to develop their potential, gain the right skills, and progress in their careers. A harmonious workplace is also important for social cohesion. There is no place for workplace discrimination in Singapore.
2. The journey to cultivate fair workplace norms and values has been a tripartite effort that started with the introduction of the Tripartite Guidelines on Non-Discriminatory Job Advertisements in 1999. Later, the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) was set up in 2006 and the Tripartite Guidelines on Fair Employment Practices (TGFEP) was introduced in 2007 to protect against all forms of discrimination at the workplace. Singapore's early efforts focused on education to shape mindsets and promote practices that enable a fair, responsible, and progressive workplace culture.
3. In consultation with its tripartite partners – National Trades Union Congress (NTUC) and Singapore National Employers Federation (SNEF) – the Ministry of Manpower (MOM) began taking action in 2013 against employers for breaching the TGFEP, by suspending their work pass privileges. The Fair Consideration Framework (FCF) was introduced in 2014. Under the FCF, employers submitting Employment Pass applications must first advertise the job vacancy on MyCareersFuture and fairly consider all candidates that apply. Penalties for breaching the TGFEP and FCF were further enhanced in 2020 to send a stronger signal against workplace discrimination.
4. This approach has enabled Singapore to make progress on addressing workplace discrimination. Employers have taken the TGFEP seriously and workplace fairness standards have improved over time. In recent years, the number of discrimination complaints received by TAFEP has come down. In addition, MOM's Fair Employment Practices Survey (2021) showed a decline in the proportion of resident job applicants who said that they experienced discrimination during their job search between 2018 (43%) and 2021 (25%). For resident employees, the proportion who said that they had experienced discrimination at work was 8% in 2021, lower than the EU average of 11% as recorded in the 2021 European Working Conditions Telephone Survey.⁴

⁴Source: Fair Employment Practices Survey, Manpower Research and Statistics Department (MRSD), Ministry of Manpower, 2021. European Working Conditions Telephone Survey, Eurofound, 2021.

5. Nonetheless, workplace discrimination remains a concern amongst some jobseekers and employees in Singapore. In 2022, TAFEP received around 250 complaints of workplace discrimination, with the most common grounds of discrimination indicated as nationality, age, and sex. We take each case of discrimination seriously. We can do more to ensure that a strong and robust system is in place to promote and uphold workplace fairness.

FORMATION OF THE TRIPARTITE COMMITTEE ON WORKPLACE FAIRNESS

6. The Tripartite Committee on Workplace Fairness (the "Committee"), co-chaired by Minister for Manpower Dr Tan See Leng, NTUC Secretary-General Mr Ng Chee Meng, and SNEF President Dr Robert Yap, was formed in July 2021 to study policy options to strengthen workplace fairness. The Committee comprises employers, unions, the human resource community and senior government representatives (see [Annex A](#) for list of Committee members).
7. The Committee's Terms of Reference are to:
 - a. Decide if legislation is the best policy option to enhance workplace fairness
 - b. Review the scope of requirements for employers
 - c. Develop the regulatory and claims regime, including process, penalties and remedies
 - d. Carry out engagements to gather feedback and understand concerns

AREAS TO STRENGTHEN WITH LEGISLATION

8. The Committee is of the view that legislation can enhance the current framework in the following ways:
 - a. **Strengthen the overall framework for workplace fairness.** Enacting legislation to provide legal protection against workplace discrimination reinforces our stance that there is no place for workplace discrimination in Singapore with a multi-racial, multi-religious and diverse workforce.
 - b. **Provide remedies for harm done.** Legislation can provide individuals an additional avenue to seek redress for harm done due to workplace discrimination, beyond wrongful dismissal. **Legislation can provide non-monetary and monetary remedies to rightful claimants.**
 - c. **Provide more appropriate enforcement against discriminatory employers.** Enforcement against breaches of the TGFEF and the FCF job advertisement requirement is currently done via the suspension of work pass privileges of the discriminatory employer for 12 to 24 months. In some cases, this could be very punitive for employers that hire many foreign workers or where the breach is due to a lapse by an employee who posted a discriminatory advertisement without authorisation from the employer. At the same time, work pass suspension is not an effective deterrent against employers that do not need to hire foreign workers, or may be insufficient in very serious cases where stronger sanctions are warranted. **Legislation can provide a range of enforcement levers that are calibrated to the severity of the discriminatory behaviour, and be an effective deterrent against employers whether or not they hire foreign workers.**

- d. **Formalise mediation as the preferred approach to resolving disputes relating to workplace discrimination.** Singapore's framework for resolving workplace disputes centres on mediation rather than litigation. This approach has worked well for employment disputes today. We can adopt and formalise this approach for the legislation – workplace discrimination claims under the new legislation will undergo compulsory mediation first, with adjudication at the Employment Claims Tribunals (ECT) as a last resort. This will facilitate timely resolution of disputes and preserve a non-litigious workplace culture, even as we enshrine more worker protections in legislation.

APPROACH TAKEN TO DEVELOP RECOMMENDATIONS

9. In developing its recommendations, the Committee drew on Singapore's experience in implementing the TGFEP. The TGFEP were developed based on tripartite consensus and have served as a common reference for both employers and employees on workplace fairness standards to be expected in Singapore's context for the past 15 years.
10. The Committee also looked at the workplace anti-discrimination legislation in Asia and beyond, recognising that each legislation is designed for the local context.
11. Given the far-reaching impact of the legislation on different segments of society, the Committee has consulted widely. Since September 2021, the Committee has reached out to a diverse group of stakeholders, including employees, unions, employers, human resource and legal professionals, grassroots, non-governmental organisations, and community organisations.
12. The engagement channels spanned dialogues, focus group discussions, and surveys, with the aim of gaining insights into the current state of workplace fairness and stakeholder sentiments, and expectations for the proposed legislation. A summary of the engagements is at [Annex B](#).

GUIDING PRINCIPLES

13. Taking into consideration the state of workplace fairness, areas to strengthen, and findings from engagements and consultations, the Committee was guided by the following principles as it formulated its recommendations:
 - a. **Legislation should complement and not replace the TGFEP.** The TGFEP have worked well and hold up desirable and overarching principles of workplace fairness for employers. Legislation is more suited to proscribing unacceptable behaviour and can complement the TGFEP by drawing a clear line at unacceptable discriminatory acts.

- b. **The workplace fairness legislation should be scoped appropriately to foster strong employer ownership and deliver good workplace outcomes for employees.** In our consultations, we heard concerns that legislation that is too wide would have a negative impact on employer-employee relationships. Employment is both a relationship and a set of legal responsibilities. If the workplace becomes too cautious and litigious, relationships could suffer and this is not in the long-term interest of employees' development and progression with the employer. At the same time, to achieve good workplace fairness outcomes, we need to foster greater knowledge and ownership among employers so that they do not only undertake a check-box compliance exercise, and to do this effectively, we have to go beyond legislation.
- c. **Give more assurance to workers that they can report workplace discrimination or harassment without fear of retaliation.** Some individuals may not report workplace discrimination or harassment because they feel they would face negative consequences if they did so. We want these individuals who have experienced workplace discrimination or harassment to come forward to make a complaint without fear of retaliation from the employer. Legislation can provide protection to complainants and give them the needed assurance.
- d. **Support national objectives and permit genuine occupational needs to be considered in employment decisions.** For example, many employers may wish to support the employment of more vulnerable groups such as persons with disabilities where merit is not the only recruitment consideration. There may also be situations where the sex of the worker is a legitimate job requirement. The workplace fairness legislation should allow for such considerations.
- e. **Preserve workplace harmony and a non-litigious workplace culture.** A hallmark of Singapore's employment landscape is our harmonious and non-litigious workplace culture. We have progressively strengthened employment laws over the years, and have always centred our dispute resolution framework on mediation rather than litigation. This facilitates timely resolution of disputes and preserves a non-litigious workplace culture even as we enshrine more worker protections in legislation. The majority of workplace disputes are resolved amicably through internal grievance handling at the firm level, and in some cases, through mediation at the Tripartite Alliance for Dispute Management (TADM). The workplace fairness legislation should be designed to preserve these important strengths of Singapore's employment landscape, including the importance of unions' continued involvement in representing workers.
- f. **Ensure that discriminatory employers face appropriate enforcement action, and provide redress to individuals who have been discriminated against.** The workplace fairness legislation will provide a range of other enforcement levers so that the penalties are more commensurate with the severity of the breach. Beyond penalties, the new enforcement regime should allow for avenues to educate employers and get them to rectify any wrong practices. The overall enforcement and remedy framework should allow for appropriate redress for victims for the harm done due to workplace discrimination and appropriate sanctions on employers calibrated to the severity of the breach.

RECOMMENDATIONS

KEY THRUST A: STRENGTHEN PROTECTIONS AGAINST WORKPLACE DISCRIMINATION

1. First issued in 2007, the Tripartite Guidelines on Fair Employment Practices (TGFE) set out the overarching principle of treating jobseekers and employees fairly and based on merit that all employers in Singapore are expected to adhere to. It is well accepted and understood by employers and employees in Singapore.
2. **The Committee recommends prohibiting specified forms of discrimination in legislation, while retaining the overarching principles of fair employment in the TGFE for all employers' adherence.** The TGFE will continue to cover all forms of workplace discrimination beyond the areas covered by legislation. It will also provide guidance on complying with the legislative requirements, while capturing other important tripartite guidelines on fair employment.

LEGISLATE PROTECTIONS AGAINST WORKPLACE DISCRIMINATION

3. Recommendation 1: The Committee recommends **prohibiting workplace discrimination in respect of the following characteristics: (i) age, (ii) nationality, (iii) sex, marital status, pregnancy status, caregiving responsibilities, (iv) race, religion, language, (v) disability, mental health conditions ("protected characteristics")**.
 - a. Stronger protection against discrimination on these grounds supports Singapore's key social and economic objectives:
 - i. **Age.** As an ageing society, supporting the employment of senior workers is critical.
 - ii. **Nationality.** Protection against 'nationality' workplace discrimination helps ensure that the workforce in Singapore is fairly considered for job opportunities, while foreigners play a valuable role in complementing our local workforce.
 - iii. **Sex, marital status, pregnancy status, caregiving responsibilities.** Prohibiting workplace discrimination in these areas is important to increasing women's participation in the workforce and supporting maternity and parenthood aspirations.
 - iv. **Race, religion, language.** In multi-racial and multi-religious Singapore, protecting against workplace discrimination on the grounds of 'race', 'religion' and 'language' is fundamental.
 - v. **Disability and mental health conditions.** Protecting against workplace discrimination on the grounds of disability supports the national effort to help more persons with disabilities join the workforce. Protecting against workplace discrimination based on mental health reasons is also important to our objective of strengthening the employment and employability of persons with mental health conditions, in line with national initiatives to support the mental health and well-being of Singaporeans.

- b. These characteristics are the common and familiar forms of workplace discrimination in Singapore. Together, they account for more than 95% of discrimination complaints received by the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) and the Ministry of Manpower (MOM) from 2018 to 2022.

Number of complaints received by TAFEP/MOM

Type of Discrimination	Annual Average (2018-2022)
Nationality	174
Age	76
Sex	48
Race/Language	34
Family Status	13
Religion	8
Disability and mental health conditions	5
Others	9
Total	312

Source: TAFEP

Notes:

1. Disability does not include physical health conditions, which is under "Others".
2. "Others" includes areas such as medical condition, physical attributes and criminal record.
3. The number of complaints under each type of discrimination will not add up to the total number of complaints received as one complaint may involve multiple types of discrimination. For example, a complaint involving discrimination due to age and religion will be counted twice (i.e. once in the age and once in the religion category) under the breakdown by type of discrimination.

4. Recommendation 2: The Committee recommends that the **TGFEP be retained and enhanced rather than replaced by the new workplace fairness legislation. The TGFEP will continue to uphold workplace fairness, and work in concert with the legislation to provide protection against all forms of workplace discrimination**, including those beyond the protected characteristics under the legislation.
5. While the new legislation will define prohibited discriminatory acts in respect of the protected characteristics, the TGFEP will continue to uphold overarching principles of fair and merit-based employment and stand against all forms of discrimination. It is better to retain the TGFEP and set down expectations for employers to achieve these broad principles of fairness rather than simply require them to comply with what is specifically prescribed or proscribed in the law.
6. Recommendation 3: The Committee recommends that legislation provide protection against discrimination based on the protected characteristics for all the stages of employment, i.e. the pre-employment (e.g. recruitment), in-employment (e.g. promotion, performance appraisal, training) and end-employment (e.g. dismissal) stages ("employment decisions").

REQUIRE FIRMS TO IMPLEMENT FAIR RECRUITMENT PRACTICES

7. Based on the reports received by TAFEP, the recruitment phase is when most instances of workplace discrimination take place. Hence, the Committee recommends legislating specific requirements to provide clear guidance to employers on practices that are prohibited. These requirements are based on existing TGFEP principles and requirements.
8. Recommendation 4: The Committee recommends **prohibiting prospective employers from using words or phrases that indicate a preference based on any protected characteristic in job advertisements** (e.g. "Chinese/Malay preferred", "Youthful working environment"). This is so that job advertisements remain focused on job requirements.
9. The Committee however recognises that there are jobs where a preference for a protected characteristic can be a reasonable job requirement. For example, language teachers should be proficient in the language that they are teaching and the employer can state language proficiency as a job requirement in advertisements. However, the employer must state the job requirement (e.g. "Tamil-speaking") instead of the protected characteristic that is not the job requirement (e.g. "Indian preferred"). This ensures that the job advertisement avoids the perception of discrimination, and enables employers to reach the widest pool of qualified candidates.

ENSURE FAIR ACCESS TO OPPORTUNITIES FOR THE LOCAL WORKFORCE

10. Locals have a long-term stake in Singapore's progress and remain the core of our workforce. It is in the employers' interest to make reasonable efforts to attract and consider locals for job positions based on merit, and to train and develop their potential and careers.
11. At the same time, staying open and connected to the world is fundamental to Singapore's success as a global city and business hub. Foreigners play a valuable role in complementing our workforce. Foreigners with relevant qualifications and experience help to fill gaps in skills and expertise. The legislation will prohibit discrimination based on nationality. There have been complaints that locals have been discriminated against while foreigners have been preferred. While MOM has taken action against employers for breaches of the TGFEP and FCF, such an act of discrimination will now also be a breach of the new legislation and a greater range of remedies and sanctions can be applied.
12. Recommendation 5: The existing FCF sets out requirements for all employers in Singapore to consider the workforce in Singapore fairly for job opportunities. To continue to promote fair hiring and improve labour market transparency, the Committee **recommends legislating the FCF job advertising requirement. Employers submitting Employment Pass and S Pass applications will need to first advertise the job vacancy on MyCareersFuture for a specified period and fairly consider all candidates that apply.**

PROTECT WORKERS FROM RETALIATORY ACTIONS BY EMPLOYERS FOR REPORTING WORKPLACE DISCRIMINATION AND HARASSMENT

13. Some employees may hesitate to come forward to report workplace discrimination or harassment out of fear of subsequently being disadvantaged in the workplace. This sentiment was raised by participants during the 2020 – 2021 Conversations on Singapore Women's Development. In addition, the MOM Fair Employment Practices Survey (2021) showed that only one in five employees who experienced workplace discrimination sought help.
14. It is important for individuals who experience workplace discrimination or harassment to come forward so that we can better address problems and shape positive workplace behaviours.
15. Recommendation 6: The Committee recommends **prohibiting employers from retaliating against those who report such cases**, to provide assurance to those who face workplace discrimination or harassment.
16. For clarity on what constitutes workplace retaliation, the legislation would **specify retaliatory actions in the law that would constitute a breach**. This approach helps to assure employees that they are protected from retaliation and also protects employers from frivolous or vexatious reports of retaliation.
17. The Committee recommends prohibiting the following retaliatory behaviours:
 - a. Wrongful dismissal
 - b. Unreasonable denial of re-employment
 - c. Unauthorised salary deduction
 - d. Deprivation of contractual benefits
 - e. Harassment
 - f. Any other act done to victimise the individual who made the report (i.e. single out the individual for unjust treatment)
18. Employers who retaliate against individuals who report workplace discrimination and harassment should face enforcement action.

ENHANCE THE TGFEP TO COVER MORE WORKERS

19. Recommendation 7: The Committee also recommends including additional guidelines in the TGFEP to **provide greater clarity to the existing position that service buyers and intermediaries should not discriminate by selecting candidates based on characteristics that are not related to the job**. Work opportunities should be fair and merit-based for all workers, including contracted workers who are non-employees. It should be made clear in the TGFEP that service buyers (e.g. property management companies) and intermediaries (e.g. platform companies providing matching services) are also required to treat contracted workers fairly, even those who are not their direct employees. For example, buyers of security services should not stipulate discriminatory requirements in their tenders (e.g. security guards younger than a certain age), and platform companies should allocate work fairly.

KEY THRUST B: PROVISIONS TO SUPPORT BUSINESS/ORGANISATIONAL NEEDS AND NATIONAL OBJECTIVES

20. The Committee's recommendations so far are aimed at upholding the standards for workplace fairness. However, there may be other practical needs and national objectives to be considered in some contexts.
21. As such, in line with the key considerations, the Committee recommends that the legislation allows for practical business/organisational needs, and other national objectives.

ALLOW FOR GENUINE OCCUPATIONAL REQUIREMENTS

22. Recommendation 8: the Committee recommends **allowing employers to consider a protected characteristic in employment decisions if the protected characteristic is a genuine and reasonable job requirement**. This has been a well-established principle in the TGFEP.

For example⁵:

- a. A wellness establishment may require its therapists to be female, as their job is to carry out personal body massages and spa treatments for their female customers. Being female is a genuine and reasonable job requirement in this case.
- b. An airline may require its pilots to be under the age of 65, in compliance with the regulatory age limit for airline pilots in Singapore.

⁵ See <https://www.tal.sg/tafep/employment-practices/recruitment/job-advertisements> for other illustrations of genuine and reasonable job requirements.

ALLOW MORE TIME FOR SMALL FIRMS TO DEVELOP THEIR CAPABILITIES

23. Recommendation 9: The Committee also recommends **exempting small firms with fewer than 25 employees from the legislation for a start, with a view to lowering this exemption in five years**. This approach recognises that smaller firms may not have the expertise and resources to fully implement the legislated requirements at the start. With this exemption, the legislation will still cover 75% of employees. Exempted firms will still be subject to the TGFEP as is the case today, and tripartite partners will step up education and capability development of these firms to better enable them to implement the requirements in time to come. Tripartite partners will monitor the situation after the legislation is introduced, with a view to lowering the exemption threshold of 25 employees for small firms in five years.

RECOGNISE THE NEEDS OF RELIGIOUS ORGANISATIONS

24. In the Committee's engagements, religious organisations have shared that it is necessary for all their employees to share common values and a common conviction to fulfil the organisation's mission. In addition, religious organisations need the discretion to make employment decisions that conform to religious practices and beliefs, which may include requirements pertaining to the protected characteristics (e.g. only males for priests and imams).
25. Given the purpose and character of religious organisations, the Committee agreed, in consultation with relevant government agencies, that it is reasonable for religious organisations to make employment decisions based on religion and religious requirements (i.e. conformity with their religious beliefs and practices).
26. Recommendation 10: To address the needs of religious organisations while preserving common space in society, the Committee recommends **allowing religious organisations – i.e. places of worship (e.g. church, mosque, temple) and religious entities with solely religious purpose/function (e.g. bodies that organise, administer, or provide training on, religion and religious affairs) – the discretion to make employment decisions based on religion and religious requirements (i.e. conformity with religious beliefs and practices), for any job role**. The Committee agreed that religious organisations should not be allowed to discriminate based on other protected characteristics where there is no religious basis to do so.
27. This discretion will only be granted to the tightly scoped group of religious organisations set out above. All other religion-affiliated entities that have a secular purpose/function or serve the general public (e.g. religion-affiliated charities, hospitals, schools, childcare centres) will continue to be allowed to make employment decisions based on religion only if it is a genuine and reasonable job requirement (e.g. when hiring staff responsible for delivering religious content in schools).

CONTINUE ALLOWING EMPLOYERS TO SUPPORT THE HIRING OF PERSONS WITH DISABILITIES AND SENIORS

28. The Committee is mindful that the pursuit of workplace fairness should not be at the expense of promoting employment opportunities for vulnerable groups that need more support.
29. Recommendation 11: The Committee recommends **allowing employers to favour persons with disabilities and seniors (≥55 years) over other groups in hiring decisions**, even if there are other equally or more qualified candidates. This supports the ongoing tripartite agenda to promote and facilitate employment opportunities for these groups. To uphold the principle of merit, the candidate must still meet baseline job requirements, and in-employment decisions such as promotion would still be based on merit. The Committee does not recommend extending the exception to other groups as hiring should ultimately be based on merit and needs of the job. We will continue to support fair representation for women and minorities in the workplace through other approaches such as ensuring access to education, upskilling and job opportunities.
30. The Committee is supportive of policies that seek to make firms more inclusive. For example, some companies may have policies to address the under-representation of women in management roles. Such policies are acceptable so long as jobseekers and employees are treated fairly and objectively, and recruitment and promotion decisions are still merit-based. Employers can expand recruitment efforts to attract more female applicants, but cannot select a woman over a more capable man for a position.

KEY THRUST C: PROCESSES FOR RESOLVING GRIEVANCES AND DISPUTES WHILE PRESERVING WORKPLACE HARMONY

31. The Committee **affirms the importance of preserving workplace harmony and promoting the amicable resolution of disputes**. This will benefit both employees and employers. Based on MOM's Fair Employment Practices Survey (2021), roughly 80% of employees who sought help for discrimination did so within the firm, indicating that many employees rely on dispute resolution at the firm level.

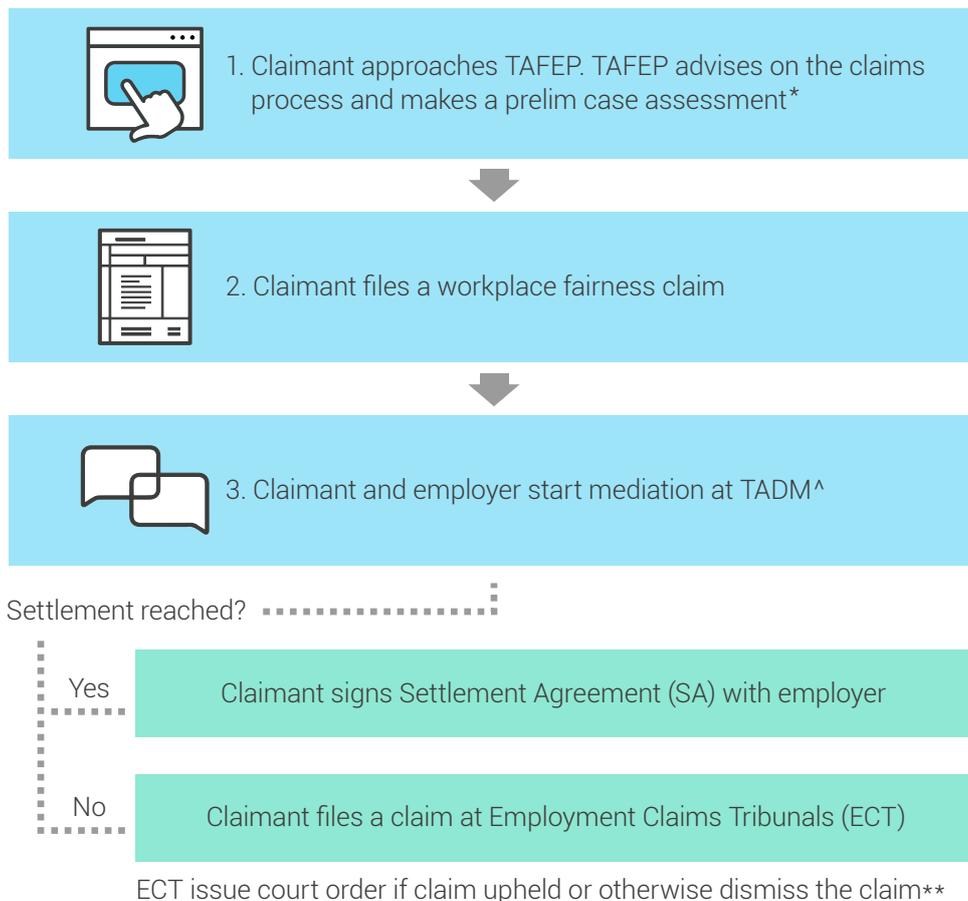
REQUIRE EMPLOYERS TO PUT IN PLACE GRIEVANCE HANDLING PROCESSES

32. Recommendation 12: The Committee recommends **requiring employers to put in place proper grievance handling processes**, so that aggrieved employees can choose to try to resolve disputes amicably within the firm in the first instance. Having grievance handling processes at the firm level also prevents unnecessary escalation, in line with one of the key considerations, that is to preserve a harmonious workplace culture. Today, the TGFEP already require employers to put in place proper grievance handling processes, and progressive employers are encouraged to adopt the Tripartite Standard on Grievance Handling.
33. The proposed grievance handling requirements to be legislated include:
- a. Putting in place a proper inquiry and documentation process
 - b. Informing employees of the firm's grievance handling procedures
 - c. Communicating the outcome of the inquiry to the affected employee
 - d. Protecting the confidentiality of the identity of persons who report workplace discrimination and harassment, where possible

REQUIRE COMPULSORY MEDIATION FOR DISCRIMINATION CLAIMS, WITH ADJUDICATION AS A LAST RESORT

34. Today, employees with employment disputes may file a claim at the Tripartite Alliance for Dispute Management (TADM). TADM mediates these claims between the employee and employer to reach mutually agreed settlements. If mediation fails, the claim is referred to the Employment Claims Tribunals (ECT) for adjudication. This is an expeditious and low-cost dispute resolution process, where 80% of claims have been settled at mediation.
35. Recommendation 13: The Committee recommends adopting this process for workplace discrimination claims under the new legislation, i.e., **claims of workplace discrimination in respect of the protected characteristics will undergo compulsory mediation at TADM first, with adjudication at the ECT as a last resort** (refer to illustration of the claims process below). Most disputes are expected to be settled at mediation. This is in line with the key consideration to preserve workplace harmony and a non-litigious workplace culture. In addition, seeking an amicable settlement supports the preservation of the employment relationship in cases where it is still practicable.

Illustration of claims process at TAFEP/TADM/ECT



* This process is similar to that of salary and wrongful dismissal claims.

^ At any point in time in the claims process, where there is a suspected serious breach of the workplace fairness legislation, the State will concurrently commence investigations for enforcement if warranted.

** ECT may award costs in favour of the employer if the claim is found to be frivolous or vexatious.

ENSURE THAT TAFEP, TADM AND UNIONS SHOULD CONTINUE TO PLAY IMPORTANT ROLES IN ADDRESSING GRIEVANCES, DISPUTES AND CLAIMS

36. Recommendation 14: The Committee recommends that **TAFEP continue to serve as the first port of call outside the firm for workers who experience discrimination**. TAFEP will continue to provide advice and assistance to workers who experience discrimination and advise employers on improving employment practices. As is the case today, TADM will provide mediation services to help claimants resolve disputes with their employers.
37. Recommendation 15: Unions also play an important role in the dispute resolution process. Today, unions assist their members to resolve grievances with their employers, file claims at TADM, and represent them at the mediation process to facilitate a settlement. The Committee recommends that **unions continue to play a constructive role in dispute resolution for workplace fairness**. During the claims process, unions may support their members, similar to other employment claims today.

KEY THRUST D: ENSURING FAIR OUTCOMES THROUGH REDRESS FOR VICTIMS OF WORKPLACE DISCRIMINATION AND MORE APPROPRIATE PENALTIES FOR BREACHES

38. The Committee recommends that there should be **appropriate redress for victims of workplace discrimination covered by the new legislation and appropriate enforcement action against errant employers**. The emphasis should be on mending the employment relationship where practicable and on educating employers to do the right thing for less severe breaches, while meting out penalties to errant employers for more severe breaches.

PROVIDE A RANGE OF MONETARY AND NON-MONETARY REMEDIES FOR CLAIMANTS

39. Recommendation 16: The Committee recommends that **at mediation at TADM, the focus should be on correcting errant practices and mending the employment relationship where practicable, and not primarily monetary compensation**. Parties could explore non-monetary remedies, such as the employer reinstating an employment offer, the employer providing an apology and the employer committing to reconsider the employee for another job. Monetary compensation may be appropriate in some instances.

40. Recommendation 17: At the ECT, remedies will be limited to monetary compensation, and reinstatement to the job for end-of-employment claims.⁶ The Committee recommends that the **ECT be allowed to order a compensation amount up to:**
- a. \$5,000 for pre-employment (e.g. recruitment) claims. This takes into consideration that there is no employment relationship yet.
 - b. \$20,000 for non-union members, and \$30,000 for union-assisted claims in recognition of the role of unions in the claims process, for in-employment (e.g. promotion) and end-of-employment (e.g. dismissal) claims. These mirror the ECT's limits for wrongful dismissal claims.

SAFEGUARD AGAINST FRIVOLOUS OR VEXATIOUS CLAIMS

41. Recommendation 18: To address the issue of frivolous or vexatious claims, (e.g. where a claimant wilfully persists with a claim despite having no evidence of discrimination), the Committee recommends **empowering the ECT to strike out frivolous or vexatious claims or to award costs of up to \$5,000 to be paid by the unsuccessful claimant to the respondent** in these situations.

For example:

- a. A jobseeker filed a claim for discrimination on the basis of sex because she was not selected for a job. However, she could not provide any evidence of discriminatory behaviour by the employer. If the jobseeker persists with this claim to the ECT, it may be a frivolous claim.
42. Awarding of costs should be on a case-by-case basis in appropriate cases, and with due consideration to not deter workplace fairness claims in general.

TAKE APPROPRIATE ENFORCEMENT ACTION AGAINST WORKPLACE FAIRNESS BREACHES

43. Recommendation 19: The Committee recommends that, **where the claim involves a suspected serious breach of the workplace fairness legislation, the State may also concurrently conduct investigations with a view to taking enforcement action**. This means that errant firms are liable for discrimination claims by individuals who seek redress, and additionally, enforcement action by the State to penalise errant employers and deter others from similar breaches.

⁶These are the existing remedies made available to claimants for wrongful dismissal claims, which include those on grounds of discrimination.

44. Recommendation 20: The Committee recommends **providing a set of enforcement levers that can be calibrated based on the severity of breach. The Committee also recommends that these enforcement levers be applicable to the firm and/or the person responsible for the discriminatory decision (i.e. the decision-maker) resulting in a breach of the workplace fairness legislation.**
45. The Committee recommends the following enforcement levers, in order of increasing severity of the breach:
- a. **Low severity: Corrective Orders issued by the MOM** requiring, for example, firms to review their hiring processes, and individual employees to attend corrective workshops. Such breaches are likely the result of individual actions and indicative of potential gaps in human resource processes.
 - b. **Moderate severity*: Administrative Penalties (APs) imposed by MOM**, of up to a few thousand dollars. APs will generally be imposed for repeat breaches that indicate a lack of attention/care by both the firm and individuals on rectification of errant practices.
 - c. **High severity*: Civil Penalties – For the most serious cases where a firm and/or decision maker shows clear intent to discriminate in a systemic manner, MOM may bring an action** against the firm/decision-maker in the Courts, where larger financial penalties may be imposed.

* Work pass curtailment may also be applied.

CONCLUSION

46. We have made significant progress in upholding workplace fairness over the past few decades. Fair employment standards have improved. Nonetheless, workplace discrimination remains a concern for some jobseekers and employees.
47. The Committee's recommendations are aimed at entrenching the fair employment standards that we have built up over the years and strengthening key areas in our framework. The Committee has proposed that primary reliance for managing complaints be placed on a case management process that supports dispute resolution through mediation and preserves a non-litigious workplace culture.
48. This legislation will be an important next step in enhancing our workplace fairness framework, but it is not a panacea. To strengthen workplace fairness, a co-ordinated and sustained effort by employers, employees, unions and the Government is required. Continued education of all employers and workers is also important. The Committee is confident that this new legislation, coupled with other enforcement measures and continued education efforts, will help to advance fair and progressive employment practices in Singapore.

ANNEX A – TRIPARTITE COMMITTEE ON WORKPLACE FAIRNESS MEMBERS

Co-Chairs

Dr Tan See Leng Minister for Manpower & Second Minister for Trade and Industry

Mr Ng Chee Meng Secretary-General, National Trades Union Congress (NTUC)

Dr Robert Yap President, Singapore National Employers Federation (SNEF)

Members

Mr Edwin Tong Minister for Culture, Community and Youth & Second Minister for Law

Dr Koh Poh Koon Senior Minister of State for Sustainability and the Environment & Manpower

Mr Zaqy Mohamad Senior Minister of State for Manpower and Defence

Ms Gan Siow Huang Minister of State for Manpower and Education

Ms Cham Hui Fong Deputy Secretary-General, NTUC

Mr Patrick Tay Assistant Secretary-General, NTUC

Mr Arasu Duraisamy Secretary for Financial Affairs, NTUC

Mr Edwin Ng Honorary Secretary, SNEF

Ms Kohe Hasan Council Member, SNEF

Ms Chew Lee Ching Vice-President, Association of Small & Medium Enterprises

Mr Chia Der Jiun Permanent Secretary (Development), Ministry of Manpower

Mr Aubeck Kam
(Until 1 April 2022) Permanent Secretary, Ministry of Manpower

Mr Gabriel Lim Permanent Secretary, Ministry of Trade and Industry

Mr Ravi Menon Managing Director, Monetary Authority of Singapore

Mr Janadas Devan Chief of Government Communications

Ms Jeanne Lee Chief Legislative Counsel, Attorney-General's Chambers

Ms Low Peck Kem President, Singapore Human Resources Institute

Ms Aileen Tan Board Member, Institute for Human Resource Professionals

ANNEX B – TRIPARTITE COMMITTEE ON WORKPLACE FAIRNESS ENGAGEMENTS

Stakeholder Group	Engagement
Employees	<ul style="list-style-type: none"> • Survey poll targeting local employees • Series of focus group discussions with employees (via public recruitment; with adequate representation across attributes and sectors)
Unions	<ul style="list-style-type: none"> • Dialogue with NTUC Industrial Relations Officers • Dialogue with NTUC union leaders • Series of dialogues with sector-specific unions
Employers	<ul style="list-style-type: none"> • Survey poll targeting employers across industries and company sizes • Series of focus group discussions covering multinational corporations, large local enterprises, and small- and medium-sized enterprises • Series of dialogues with Trade Associations and Chambers • Dialogue with Financial Sector Tripartite Committee
Human Resource (HR)/ Legal Professionals	<ul style="list-style-type: none"> • Survey polls targeting HR professionals in partnership with Institute of HR Professionals and Singapore Human Resources Institute • Dialogue with HR professionals organised in partnership with TAFEP • Dialogue with HR professionals organised in partnership with TAFEP and Institute of HR Professionals • Dialogue with members of Human Resource Management Congress • Dialogue with members of Law Society of Singapore and Singapore Corporate Counsel Association Dialogue
Grassroots	<ul style="list-style-type: none"> • Dialogue with members of public organised in partnership with REACH • Series of dialogues members of public organised in partnership with the Community Development Councils • Focus group discussion with grassroots leaders in partnership with People's Association
Non-Governmental/ Community Organisations	<ul style="list-style-type: none"> • OnePeople.SG – Institute of Policy Studies Community Leaders' Conference • Dialogue with leaders of OnePeople.SG • Dialogue with leaders of Centre for Seniors • Dialogue with leaders of Disabled People's Association • Dialogue with Singapore Council of Women's Organisation