

Empowerment for Diversity



Drafting an Equality Policy



**EQUALITY
CERTIFIED**



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Background

The following is a guide for all employers, companies and organisations who:

- would like to have an Equality Policy in place
- are applying for NCPE's Equality Mark Certification

Scope

This guide is intended to aid the organisation to define its values and mode of conduct in relation to equality at the workplace. A template of an Equality Policy is being presented below. It is important to note that the text is to be adapted to the specific needs and context of the organisation.

Definitions of Terms

The following are definitions of terms to be used in the Equality Policy

An example of **direct discrimination** occurs when a woman is not offered a promotion simply because she has young children, and the employer assumes that she will not be able to put in the work needed for the new position.



Direct discrimination: a person is treated less favourably than another person in a comparable situation because of a protected characteristic such as gender, race/ethnic origin, sexual orientation, gender identity or age.



Indirect discrimination: where an apparently neutral provision (criterion or practice) would put a person at a particular disadvantage compared with other persons (unless it is objectively justified by a legitimate aim) and the means of achieving that aim are appropriate and necessary.

Indirect discrimination often happens when there is a policy or a measure that applies in the same way for everybody but, in practice, disadvantages a group of people with one of the protected characteristics. For example, a company requiring employees to work longer hours than agreed may put employees with children or other family responsibilities at a disadvantage when compared to other employees.



Protected characteristics are specific aspects of a person's identity. No one can be discriminated against because of these specific aspects. The laws of Malta establish that no one should be treated unfairly because of the following characteristics: sex/gender and family responsibilities, age, religion/belief, racial/ethnic origin, gender identity, expression or sex characteristics, and sexual orientation.



Harassment takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.



Family Friendly Measures are non-statutory¹ flexible working arrangements aimed at facilitating the reconciliation of work and family responsibilities such as caring for children and dependent adult family members. The below are examples of family-friendly measures your organisation/school may be offering or can consider offering. This list² is not exhaustive.

- **Flexitime** allows employees to choose when to start and end their workday.
- **Reduced hours** mean that an employee has an agreement with the employer to work less hours.
- **Annualised hours** are the total number of hours an employee works in one year.
- **Exemption from Non-Scheduled work** means that some employees might be exempt from working after the core hours.
- **Telework** allows employees to work from home or any other approved worksite.
- **Part-time work** is where the working hours of a part-timer are based on irregular weekly working hours. In such cases, the pro-rata is calculated over the average of hours worked over a period of 13 weeks³.

Examples of

harassment in the workplace include derogatory jokes, personal insults and exclusion, in relation to a protected characteristic.

¹ Such measures may exceed what the law states as obligatory.

² https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/Equality%20Beyond%20Gender%20Roles/Drafting%20a%20Policy.pdf

³ <https://dier.gov.mt/en/Employment-Conditions/Hours%20of%20Work/Pages/Part-Time-Employment.aspx#:~:text=The%20pro%2Drata%20is%20calculated,per%20week%20is%20208%20hours.>

Introduction

This section will serve as a basis to the Equality Policy. The organisation (company/entity, school etc) is to:

- Introduce the aims and goals of an equal opportunity employer.
- Mention why the organisation is an equal opportunity employer.
- Explain the aim of having an inclusive environment which promotes equality, values diversity and maintains a working environment in which the rights and dignity of the entire staff are respected. With such an environment, for example, an organisation is more likely to retain its employees.
- Declare the organisation's stand against discrimination and list a number of grounds of discrimination⁴.

2. Applicability

It is important for the organisation to reflect on who is to be bound by this Equality policy. This is to be clearly stated in this section of the policy, for example:

This policy binds all the (employees, students, interns, contractors) of (name of organisation/school). The organisation (company/entity, school etc) deems that ensuring a non-discriminatory environment is the responsibility of all persons and management working within (name of organisation).

3. Commitment of the organisation

It is important for an organisation to declare its commitment of having an equality policy which is in line with the Laws of Malta. Hereunder is a list of Articles and Chapters within the Laws of Malta which should be mentioned in an organisation's Equality Policy:

In terms of Article 4 of the Equality for Men and Women Act, (Chapter 456) it is unlawful for any person to discriminate, either directly or indirectly:

- In the arrangements made to determine who should be offered employment

⁴ These grounds should include sex, age, race/ethnic origin, marital status, pregnancy or potential pregnancy, family responsibilities, disability, sexual orientation, religious or other beliefs and gender identity, gender expression and sex characteristics.

- In determining who should be offered employment
- In the terms and conditions on which the employment is offered, including pay and other benefits
- In determining who should be dismissed from employment

In terms of Article 3 of the Access to Goods and Services and their Supply (Equal Treatment) Regulations, 2008 (L.N.181 of 2008), it is also unlawful to discriminate on the basis of gender in the access to and supply of goods and services.

The organisation is then to commit to listing some procedures which will most notably be in line with the principles of equality and inclusivity. Such practices may include but are not limited to:

- Vacancies and vacancy advertisements, job descriptions and interviews or other recruitment procedures, employment practices, provision of training as well as provision of goods and services.

Moreover, the organisation is to ensure that the person/s/panel involved in the recruitment process is well-versed in equality legislation, are gender-balanced, and shall ensure that the criteria established for recruitment, application forms and interview questions only refer to what is essential for the performance of tasks relevant to the job. It should also be assured that weighting given for each criterion is not gender-biased and equal importance is given to male and female characteristics.

It is also important that in the Equality Policy, organisations state that persons employed in the same grade or type of employment shall enjoy the same conditions of work, including pay and other perks.

Family Friendly Measures

If not already included in another policy document⁵, it is suggested that the organisation includes a statement regarding the provision of Family Friendly Measures and the procedure for applying, as well as justifications for said applications not being accepted.

⁵ For more information on drafting a work-life balance policy, please visit NCPE's website; https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/Equality%20Beyond%20Gender%20Roles/Drafting%20a%20Policy.pdf





4. Disciplinary & grievance procedure

The organisation is to adopt a procedure for the filing and investigation of alleged cases of discrimination. This establishes a course of action to be taken by employees if they think they have been treated unfairly as well as the investigation procedure to be undertaken by the organisation after a complaint is filed. Disciplinary action, when cases of discrimination are proved, should also be outlined. A record of such disciplinary cases is also to be kept. Thus, organisations are encouraged to develop and include under this section the following points:

- Course of action to be taken by the victim when reporting alleged discriminatory treatment
- A fair investigative process, including timeframes and commitment to hear all parties and witnesses as well as final report
- List of disciplinary action that can be taken by the organisation when a case of discrimination is proved



5. Communicating the policy

All employees are to be informed of the organisation's Equality Policy upon their appointment but also through dissemination via newsletters, weekly emails and the organisation's website, among others.

All employees are to be further informed about the possibility of seeking assistance from outside the organisation should the employee think he/she has been discriminated against or treated unfairly. The organisation may wish to include the NCPE's details in the Equality Policy as the NCPE may assist the employees and the organisation by investigating cases of alleged discrimination.

The abovementioned should be included in the Equality Policy so that the employees are aware of both the Equality Policy as well as their options of redress.



6. Conclusion

In this section, the organisation is to specify who is responsible for implementing and updating this policy, making it easier for employees to contact the responsible person/s in case they need to enquire about any part of the policy.

Guidelines to drafting an Equality Policy

An Equality Policy signifies an organisation's (company/entity, school, etc) commitment to promote equality in concrete terms.

The following are the steps an organisation (company/entity, school, etc) should take if they wish to promote equality daily and in practical ways:

The Equality Policy should be:

- In a **written format**
- **Made available** to all employees/students at recruitment stage so they may familiarize themselves with it
- **Reviewed** and updated regularly (approximately every 2 years, or when the need arises)
- In line with **current legislation**
- The subject of **consultation** with individuals and groups within the wider environment of the establishment
- **Widely available and easily accessible** to all those who come in contact with the organisation
- Explicitly **endorsed** by top management officials

The policy should contain the following details:

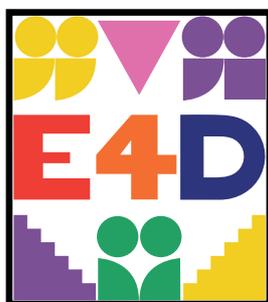
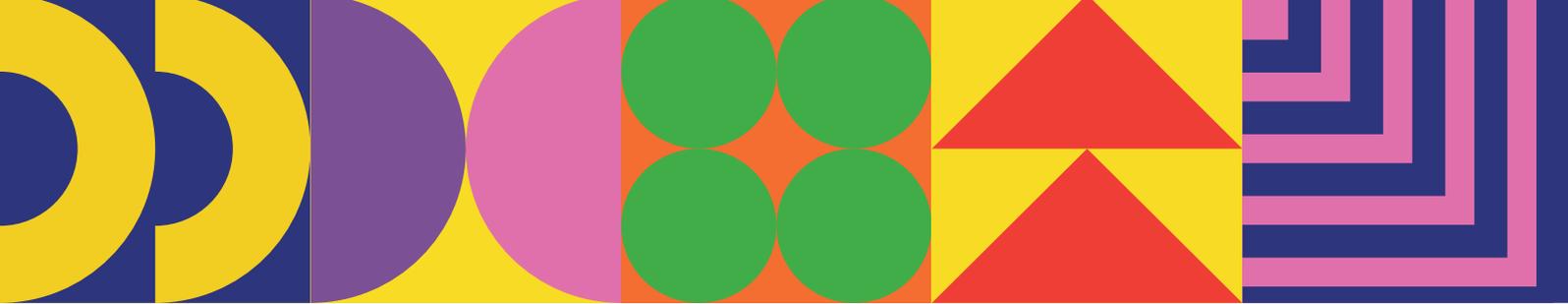
- A clear definition of 'equality', and other terminology, in line with relevant **legislation**
- Chapter 456 – Equality for Men and Women Act
- Legal Notice 181/2008 – Access to Goods and Services and their Supply Regulations.
- A clear statement that discrimination is **unlawful**
- A clear explanation of what discrimination is, including examples
- A reference to **recruitment** process:

- ▶▶ Selection committee and/or the panel should be given a copy of the company's equality policy and when possible, the panel should also be gender balanced.
- ▶▶ All recruitment methods, documentation and publicity are to be non-discriminatory.
- ▶▶ Selection criteria and job requirements should not directly or indirectly discriminate, as defined by law.
- ▶▶ Equal terms and conditions offered to people in the same grade and in the same type of employment.

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- A reference to **positive action** (what steps does your organisation take to improve equality at the workplace?)
 - A reference to **family friendly measures**
 - A reference to **victimization** and its repercussions
 - A reference to **service delivery** issues
 - ▶▶ All those who have contact with the company will be offered the same rights as offered to staff throughout the policy.
 - ▶▶ This needs to be elaborated depending on the type of service the company delivers.
 - A reference to **monitoring** the policy and how this will be achieved
 - A reference to whose **responsibility** it is to implement the policy
 - A reference to **what will happen** if policy is breached
 - A reference to **training** of staff about the policy
 - A reference as to where one can access the policy

It is also important to ensure that **harassment and sexual harassment** are both addressed either through one single equality policy or in a separate sexual harassment policy, for which similar guidelines can be found on NCPE's website.

Moreover, **all staff** should be made aware of the policy and its content. It is important for all members of staff to note that once they are made aware of the policy, it is their **personal responsibility** to comply with the policy and if they do not, the organisation is to clearly state what the repercussions will be.



Empowerment for Diversity



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