

Leo Baeck Centre for Progressive Judaism Incorporated

Workplace Equal Opportunity and Discrimination Policy

1. Policy Overview

- 1.1. The Leo Baeck Centre for Progressive Judaism Incorporated (**LBC**) is committed to providing all employees, contractors, volunteers and members of LBC with equal opportunities and a healthy and safe environment which is free from behaviours, practices and procedures that may constitute discrimination.
- 1.2. This policy should be read in conjunction with LBC's Workplace Bullying Policy and Sexual Harassment Policy.
- 1.3. A reference to "the Committee" in this policy means the governing body of the incorporated association whether described in the Rules of the association as a Committee, Board or otherwise.

2. Application

- 2.1. This policy applies to:
 - 2.1.1. the Committee;
 - 2.1.2. employees;
 - 2.1.3. contractors;
 - 2.1.4. volunteers; and
 - 2.1.5. members,of LBC (collectively known as the **personnel**) and covers all activities related to LBC, including LBC religious services.
- 2.2. This policy will apply to the behaviour of all the personnel of LBC during the course of their work (collectively known as the workplace);
 - 2.2.1. in the workplace, including the physical premises of LBC and during normal work hours and outside normal working hours.
 - 2.2.2. during work activities, including LBC religious services.
 - 2.2.3. at work-related events both onsite and off LBC premises, including conferences and social functions.
- 2.3. This policy does not replace existing complaint resolution processes, including where a member of the personnel has a complaint about legitimate and reasonable:
 - 2.3.1. performance management processes; or
 - 2.3.2. disciplinary action.

3. *What does equal employment opportunity mean?*

- 3.1. Equal employment opportunity means that employment and management practices operate in a way that gives everyone equality of opportunity in the workplace.
- 3.2. Equal employment opportunity requires that all decisions and practices relating to employment are based on clear, pre-determined job-related criteria in all areas including:
 - 3.2.1. recruitment;
 - 3.2.2. selection;
 - 3.2.3. remuneration;
 - 3.2.4. conditions of employment;
 - 3.2.5. training and development;
 - 3.2.6. promotion; and
 - 3.2.7. termination of employment.
- 3.3. Decisions and practices relating to employment must be based only on the relevant skills, experience, qualifications and aptitude of the employee.

4. *On what grounds do anti-discrimination laws prohibit discrimination?*

- 4.1. Under the Victorian *Equal Opportunity Act 2010*, the Victorian *Racial and Religious Tolerance Act 2001*, the Commonwealth *Sex Discrimination Act 1984*, the Commonwealth *Disability Discrimination Act 1992*, the Commonwealth *Racial Discrimination Act 1975*, and the Commonwealth *Fair Work Act 2009*, decisions or practices based on any of the following attributes may be discriminatory and unlawful:
 - 4.1.1. age;
 - 4.1.2. breastfeeding;
 - 4.1.3. carer status;
 - 4.1.4. disability/impairment;
 - 4.1.5. gender identity;
 - 4.1.6. industrial activity;
 - 4.1.7. lawful sexual activity;
 - 4.1.8. marital status;
 - 4.1.9. parental status;
 - 4.1.10. physical features;
 - 4.1.11. political belief or activity;
 - 4.1.12. pregnancy;
 - 4.1.13. race;

- 4.1.14. religious belief or activity;
- 4.1.15. sex;
- 4.1.16. sexual orientation; and
- 4.1.17. personal association with someone who has, or is assumed to have, one of these personal characteristics.

5. *What is discrimination?*

- 5.1. Commonwealth and State laws recognise two types of unlawful discrimination; direct and indirect:
- 5.2. **Direct discrimination** is any action which specifically excludes a person or group of people from a benefit or opportunity, or significantly reduces their chances of obtaining it, because a personal characteristic irrelevant to the situation (for example sex or ethnic origin) is applied, consciously or unconsciously, as a barrier.
- 5.3. **Indirect discrimination** occurs where there is a requirement (a rule, policy, practice or procedure) that is the same for everyone, but has disproportionate effect or result on one particular group. Unless this type of requirement is “reasonable” having regard to the circumstances, it is likely to be indirect discrimination – even if there was no intention to discriminate.
- 5.4. It is unlawful to discriminate on the basis that a person is perceived to have one of the above attributes, even if they do not actually have that attribute.
- 5.5. Discrimination can be found to have occurred even where it cannot be established that the person accused of discriminating intended to discriminate.
- 5.6. Even if the discriminatory reason is only one reason for the conduct complained of, this will be sufficient to establish that discrimination has occurred.
- 5.7. A person who discriminates may be found personally liable for the discrimination, as well as LBC being found liable.
- 5.8. Some instances of racial vilification may be criminal offences.

6. *Discrimination exemptions*

- 6.1. The *Equal Opportunity Act 2010* (Vic) outlines some exceptions, which means that discrimination may not be against the law in particular circumstances.
- 6.2. General exceptions apply to discrimination in all areas of public life, such as situations where discrimination is necessary to protect someone’s health and safety. General exemptions include:
 - 6.2.1. discrimination by court or law;
 - 6.2.2. religious exemptions;
 - 6.2.3. health and safety; and

- 6.2.4. special needs.
- 6.3. Specific exemptions apply only to certain areas of public life (for example in education, clubs or accommodation) or to specific personal characteristics (for example age or sex).

7. Religious exemptions

- 7.1. A religious body means:
 - 7.1.1. a body established for a religious purpose; or
 - 7.1.2. an entity that establishes, or directs, controls or administers, an educational or other charitable entity that is intended to be, and is, conducted in accordance with religious doctrines, beliefs or principles.
- 7.2. Under section 82 of the *Equal Opportunity Act 2010* (Vic), religious bodies can discriminate against a person because of a personal characteristic in certain circumstances, including:
 - 7.2.1. ordaining or appointing priests, ministers of religion or members of a religious order
 - 7.2.2. training or educating people seeking ordination or appointment as priests, ministers of religion or members of a religious order
 - 7.2.3. selecting or appointing people to perform functions relating to, or participating in, any religious observance or practice.
- 7.3. Religious bodies and religious schools can discriminate on the basis of:
 - 7.3.1. a person's religious belief or activity
 - 7.3.2. sex
 - 7.3.3. sexual orientation
 - 7.3.4. lawful sexual activity
 - 7.3.5. marital status
 - 7.3.6. parental status
 - 7.3.7. gender identity

but only where the discrimination conforms to the doctrines, beliefs or principles of the religion or is reasonably necessary to avoid injury to the religious sensitivities of people who follow the religion.
- 7.4. Religious bodies and religious schools can also allow someone to discriminate against another person because of the above characteristics, but only if the discrimination is reasonably necessary for the first person to comply with the doctrines, beliefs or principles of their religion.
- 7.5. The term 'reasonably necessary' requires an objective assessment of whether the discrimination is necessary.
- 7.6. Religious bodies and religious schools cannot discriminate because of a person's:
 - 7.6.1. race

- 7.6.2. disability
- 7.6.3. age
- 7.6.4. physical features
- 7.6.5. industrial or employment activity
- 7.6.6. carer status
- 7.6.7. political belief or activity
- 7.6.8. pregnancy and breastfeeding
- 7.6.9. personal association with a person with any protected characteristic.

8. Responsibility

- 8.1. All personnel have an obligation and responsibility to proactively promote a workplace of equal opportunity and free of discrimination in any working relationship between different personnel members.
- 8.2. The Committee is responsible for:
 - 8.2.1. endorsing this policy and related procedures; and
 - 8.2.2. proactively promoting a workplace of equal opportunity and free from discrimination and acting on incidents;
 - 8.2.3. providing for appropriate training and information to personnel of the workplace about what are acceptable and unacceptable workplace behaviours;
 - 8.2.4. informing personnel of the actions they can take if they feel they are being discriminated against;
 - 8.2.5. arranging or providing adequate and appropriate support to personnel who make a complaint about discrimination, including ensuring that the matter is treated confidentially and that the complainant is not victimised; and
 - 8.2.6. dealing fairly with all persons involved in allegations of discrimination including ensuring due process.
- 8.3. Employees, contractors, volunteers and members are responsible for:
 - 8.3.1. ensuring they are familiar with this policy and complying with this policy;
 - 8.3.2. understanding the responsibilities and adhering to the policies and procedures associated with maintaining an environment free of discrimination;
 - 8.3.3. maintaining complete confidentiality if they provide information during the investigation of a complaint.
- 8.4. This policy recognises that in some situations, people may not be aware that their behaviour is unacceptable or offensive, because such behaviour has become part of the prevailing culture of the workplace. It is the Committee's role to set acceptable standards and apprise personnel of their expectations.

9. Complaint Procedure

Making a Formal Complaint

- 9.1. Someone who feels they are being discriminated against is entitled to make a formal complaint to the President of the Committee (**President**). The complaint may be made by another person should they so choose, on behalf of a personnel member.
- 9.2. The complaint must be in writing and provide sufficient information for the President to assess whether an investigation is warranted. The President may seek further information from the complainant or the other personnel member in order to ascertain whether an investigation is warranted. The complaint should include details of what informal steps have been taken to seek to resolve the matter or, if these have not been taken, why they are inappropriate.
- 9.3. Unless the President is convinced that the complaint is frivolous or malicious, the President will instigate an investigation of the complaint in circumstances where:
 - 9.3.1. informal efforts have not resolved the matter; and/or
 - 9.3.2. someone complained against has refused to participate in, or withdrawn from, conciliation.
- 9.4. If the President is convinced that the complaint is frivolous, vexatious or malicious, the President may advise the Committee to further investigate this and consider disciplinary action.
- 9.5. In the event that the President wishes to make, or is the subject of, a formal complaint, such complaint may be made in writing to another member of the Committee. The Committee must then nominate an independent member of the Committee to undertake the complaint procedure set out in this policy.

Investigation of Formal Complaints

- 9.6. Where the President assesses that an investigation of a complaint is warranted, the President will instigate a formal investigation into whether or not discrimination has occurred and, if so, who have been the perpetrators.
- 9.7. The person(s) against whom the complaint is made will be informed of the allegations and advised of their entitlement to be assisted by a work colleague or another representative, should they so choose. They will also be advised that the outcome of the investigation could lead to disciplinary action.
- 9.8. The President shall ensure that whatever the outcome of the complaint, the complainant is not victimised.
- 9.9. The investigation may include gathering evidence from the complainant, the person(s) against whom the complaint is made and other relevant persons. The investigation shall be made in a timely manner, but ensure that everyone involved has adequate time and resources to provide relevant information. The report of the investigation shall be provided to the Committee, the complainant and the person(s) against whom the complaint was made.

Action on the Report

- 9.10. The President shall advise the Committee on:
 - 9.10.1. the appropriate action, based on the findings of the investigation, which may include:

- an apology;
- changes to work practices;
- disciplinary action;
- training or
- notes placed in personnel file etc,

9.10.2. whether or not disciplinary action is warranted against the person or persons subject to the complaint;

9.10.3. remedial actions which should be taken by the Committee to prevent workplace discrimination;

9.10.4. whether counselling, conciliation or mediation should be provided.

Disciplinary Action

9.11. Any disciplinary action in regard to workplace discrimination by a member or involving a member will be subject to the Disciplinary Action provisions set out in the Rules of LBC.

9.12. Any disciplinary action in regard to workplace discrimination will be taken in accordance with any Agreement under which the person subject to the complaint is engaged (if applicable). It is recognised that the report of the investigation into a formal complaint may be used to formulate allegations of misconduct or serious misconduct.

10. Additional Resources

Contact the Victorian Equal Opportunity and Human Rights Commission.

Phone: 1300 891 848
 Address: Level 3, 204 Lygon Street Carlton Victoria 3053
 Email: enquiries@veohrc.vic.gov.au
 Web: www.humanrightscommission.vic.gov.au

Contact the Australian Human Rights Commission.

Phone: 1300 369 711
 Address: Level 3, 175 Pitt Street Sydney New South Wales 2000
 Email: infoservice@humanrights.gov.au
 Web: www.hreoc.gov.au

Australian Human Rights Commission Act 1986 (Cth)

Age Discrimination Act 2004 (Cth)

Disability Discrimination Act 1992 (Cth)

Racial Discrimination Act 1975 (Cth)

Racial and Religious Tolerance Act 2001 (Vic)

Sex Discrimination Act 1984 (Cth)

Equal Opportunity Act 2010 (Cth)

Equal Opportunity Act 1995 (Personal Characteristics) (Vic)

Equal Opportunity Amendment Act 2011 (Cth)

Human Rights and Responsibilities Act 2006 (Vic)

Occupational Health and Safety Act 2004 (Vic)

Work Health and Safety Act 2011 (Cth)

Workplace Gender Equality Act 2012 (Cth)

Fair Work Act 2009 (Cth)