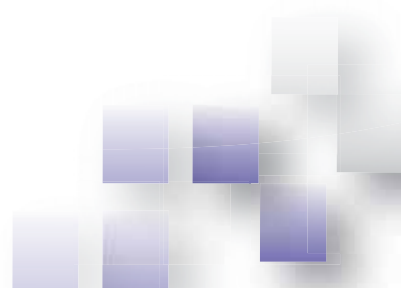


Practical Guide for Employers

GUIDE 5

RESOURCES FOR EQUALITY MANAGEMENT IN COMPANIES



Promoting equality and preventing discrimination at work in Cambodia:

Code of practice and practical guide in five parts

	Code of practice for employers
	Practical Guide in five parts:
1.	The business case for equality at work
2.	Recruitment practices that promote equality
3.	Promoting equality in the workplace
4.	Managing equality in the workplace
5.	Resources for equality management in companies

5. Resources for equality management in companies

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Summary contents of the Code, the other Guide booklets and lists of cases and tools

Code of Practice for employers:

1. Introduction
2. Guiding principles to promote equal opportunity and treatment and prevent discrimination at work
3. Possible methods of implementation

Practical guide in five parts:

Booklet 1. The business case for equality at work

- Foreword by CAMFEBA President
- Foreword by the ILO
- Introduction from CAMFEBA Vice President
- 1. Why should employers know about equality?
- 2. Equality matters: Eight reasons to embark on equality measures
- 3. Legal aspects of non-discrimination

Booklet 2. Recruitment practices that promote equality

1. Reviewing recruitment procedures
2. The recruitment process
3. Pre-employment medical examinations
4. Records and post-recruitment procedures
5. Induction training
6. Recruitment through employment agencies

Booklet 3. Promoting equality in the workplace

1. Pay and benefits
2. Terms and conditions of work
3. Performance management and appraisals
4. Training and development
5. Promotion and career development
6. Harassment
7. Maternity protection

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1. What employers can do to promote equality
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3. Reinstatement after discriminatory dismissal: An example from the hotel sector in Cambodia.....
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5. Work and family challenges in Philippine enterprises.....
6. Discrimination in SA8000 and ISO26000.....

Booklet 5

7. Hong Kong Equal Opportunities Commission – Hong Kong, China.....
8. Malaysian employers take action against sexual harassment.....
9. Compelling business case for workplace partnership, diversity and equality – Ireland
10. Female leadership and company profitability
11. Diversity management in European countries
12. Discriminatory use of aptitude tests – United Kingdom ...

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3. International and national legislation checklist: Prohibited grounds of discrimination in Cambodia
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- 12. How to define the “value” of a job
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- 14. Checklist: How advanced is your equality management?
- 15. Non-discrimination roadmap
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Introduction

It is with great pleasure that the Cambodian Federation of Employers and Business Associations (CAMFEBA), presents this Code of practice and the accompanying Guide booklets, jointly developed with the International Labour Organization (ILO), to assist employers in promoting equality and preventing discrimination at work in Cambodia.

The Guide comprises five booklets:

1. The business case for equality
2. Recruitment practices that promote equality
3. Promoting equality in the workplace
4. Managing equality in the workplace
5. Resources for equality management in companies

We hope that you use this Guide and find it effective. We welcome feedback on subsequent improvements in your equality and non-discrimination policies.

CAMFEBA is happy to provide further information or answer relevant questions. Please contact us at camfeba@camfeba.com.

1. Case studies for further reading

Case study 7: Hong Kong Equal Opportunities Commission – Hong Kong, China

Established in 1996, the Equal Opportunities Commission of Hong Kong, China, works against discrimination on the grounds of sex, marital status, pregnancy, disability and family status. Its functions include the following:

- Applying investigative and conciliation powers.
- Issuing codes of practice and guidelines on equal opportunities.
- Producing research on discrimination.
- Building partnerships with enterprises and governmental and non-governmental organizations alike.

A major Commission achievement has been the reform of the Secondary School Places Allocation (SSPA) system. For a quarter of a century, the SSPA had led to the systematic lowering of the best girls' scores and scaling up of the best boys' scores, as well as to

arbitrary gender quotas that restricted girls' access to the best schools.

The Equal Opportunities Commission (EOC) is an independent body, funded by the Government to implement anti-discrimination legislation in Hong Kong, including the Sex Discrimination Ordinance (SDO), the Family Status Discrimination Ordinance (FSDO), and the Disability Discrimination Ordinance (DDO). In the field of employment, the SDO protects all workers, including part-time and temporary workers as well as job applicants who are not yet employed. Unlawful acts under the SDO and FSDO include direct and indirect discrimination on the grounds of sex, pregnancy, marital status, family status, sexual harassment and victimization. There are no specific provisions on equal pay for work of equal value, but the SDO does prohibit discrimination in pay levels, and can be used for equal work for equal value cases.

Redress mechanisms include facilitating internal company procedures, and taking complaints to the EOC or instituting legal proceedings, including grants for legal assistance. When a complaint is taken to the EOC, the Commission starts with investigation, and then moves to conciliation where deemed appropriate. Most complaints under both the SDO and the FSDO relate to employment, in particular pregnancy discrimination and sexual harassment. The success rate of conciliation is relatively high — for example, conciliation was successful in 71 per cent of sex discrimination cases between 1996 and 2008. Challenges in promoting equal pay for work of equal value include the lack of definition of value and of legislation on specific job evaluation methods. Small and medium enterprises (SMEs) in particular find implementation difficult.

Sources. Hong Kong Equal Opportunities Commission website www.eoc.org.hk [8 Sep 2010]; ILO: *Report of Policy Seminar on Work, Income and Gender Equality in China* (Bangkok and Beijing, 2008).

Case study 8: Malaysian employers take action against sexual harassment

In Malaysia, sexual harassment was not prohibited in labour legislation until January 2012. However, the Penal Code (Act 574) made specific provision for sexual harassment offences, and protection against sexual harassment was well established in case law. Furthermore, in 1999 the Ministry of Human Resources established a Code of practice on the prevention and eradication of sexual harassment in the workplace. The Malaysian Employers Federation (MEF) made a significant contribution to its formulation.

Intended for implementation on a voluntary basis, the Code serves as a guideline for employers in establishing an internal mechanism to handle problems of sexual harassment in the workplace. The Code encourages employers to set up an in-house mechanism that should be reinforced by a policy statement prohibiting sexual harassment in the organization. The Code also urges organizations to adopt a clear definition of sexual harassment, a complaint/grievance procedure, disciplinary rules and penalties against the harasser and against persons making false accusations, and protective and remedial measures for victims. It also encourages implementation of promotional and educational programmes to explain

company policy regarding sexual harassment and to raise awareness of sexual harassment and its adverse consequences among employees, supervisors and managers.

The MEF encourages employers to accept and implement the Code with a view to preventing and eradicating sexual harassment in the workplace. It keeps its members current on the latest developments regarding sexual harassment. A training programme entitled “Dealing with sexual harassment at the workplace” is readily available to MEF members, and its industrial relations experts provide them with advice on how to deal with issues pertaining to sexual harassment at the workplace. The MEF also participates in dialogue with government ministries on issues of sexual harassment in the workplace.

In January 2012, a definition of sexual harassment was included in the Malaysian Employment Act. The amended Employment Act also prescribes a procedure for inquiring into complaints of sexual harassment. The employer is to make primary inquiries into complaints of sexual harassment. Where necessary, a complaint may also be referred to the Director General of Labour.

Sources. ILO: *Employers' organizations taking the lead on gender equality: Case studies from ten countries*, Bureau of Employers Activities, ACT/EMP No.43 (Geneva, 2005); Government of Malaysia Employment (Amendment) Act 2012.

Case study 9: Compelling business case for workplace partnership, diversity and equality – Ireland

A study of Ireland's top companies has confirmed a strong link between bottom-line business performance and the use of High Performance Work Systems (HPWSs) in the workplace. HPWSs include strategic human resources (HR) management (staffing, training and development, performance management and remuneration, and communication and participation practices); partnership, diversity and equality strategies; and flexible working arrangements. The findings offer fresh insights into how the effective management of people in companies can drive competitiveness in tangible ways, among others in improved productivity, innovation and employee retention.

The report is based on a detailed survey of more than 130 of Ireland's leading companies. The research team was charged with measuring the per capita labour productivity of the companies in question, their workforce innovation, and their employee retention rates, as well as with quantifying the proportion, in each case, attributable to the use of HPWS.

Their main findings included the following:

- **Labour productivity:** The use of HPWS accounted, on average, for a 14.8 per cent increase in labour productivity among the survey sample. In terms of total economic value, annual productivity per employee was found to be EUR 299,992, of which EUR 44,399 per employee per annum was directly attributable to the use of HPWS. For the median-sized company in the survey (270 employees), this is equivalent to an additional EUR 12 million in annual sales revenue.

- **Workforce innovation:** The use of HPWS accounted, on average, for a 12.2 per cent increase in workforce innovation, equivalent to sales revenue of EUR 2,061 per employee per annum, or EUR 556,200 in the median-sized company.
- **Employee turnover:** The use of HPWS resulted in a 7.7 per cent decrease in annual employee turnover.

The report includes a specific examination of the diversity-and-equality theme. It found that in the samples of companies studied, diversity and equality strategies are associated with the following:

- 6.5 per cent increase in labour productivity across this sample.
- 7.9 per cent increase in workplace innovation.
- 4.4 per cent decrease in employee turnover.

Source. National Centre for Partnership & Performance (NCPP) and the Equality Authority: *New models of high performance work systems: The business case for strategic HRM, partnership and diversity and equality systems* (Dublin, 2008).

Case study 10: Female leadership and company profitability

Various studies conducted abroad reveal a significant positive correlation between company performance, profitability and gender diversity in company senior management. The studies show that both SMEs and larger companies can achieve a competitive advantage over their peers by identifying and eliminating obstacles to women's advancement to top management.

A study conducted by the Finnish Business and Policy Forum (EVA) analyzed statistical data from 12,738 limited companies in Finland. This is one of the most representative and extensive company-level data samples used in gender research, covering 91 per cent of Finnish limited companies with more than 10 employees. The study found that, when all other factors affecting firm profitability, such as size and sector, were controlled for, a company with a female CEO was about 10 per cent (slightly more than one percentage point) more profitable than an otherwise similar company with a male CEO. Similarly, a company with a gender-balanced board was on average about 10 per cent more profitable than a similar company with an all-male board. The study concludes that, to boost their profitability, companies should promote gender-neutral career opportunities and take steps to remove the numerous and often difficult to observe mechanisms and networks that favour men and hinder women from climbing the executive ladder.

Similar conclusions emerged from a study conducted by McKinsey & Company, an international management consulting firm. The study analyzed the performance of 89 European listed companies with the highest level of gender diversity in top management. The selection criteria included the number, proportion and function of women on the executive committee, and the presence of more than two women on the board. The study found that

companies with high level of gender diversity in top management outperformed their sector in terms of returns on equity (11.4 per cent vs. a sector average of 10.3 per cent), operating results (EBIT 11.1 per cent vs. 5.8 per cent), and stock price growth (64 per cent vs. 47 per cent over the period 2005–2007). Another study conducted by McKinsey & Company established a striking correlation between organizational excellence and women's participation in management bodies. The analysis of answers from 58,240 respondents from 101 large corporations in America, Asia and Europe included nine criteria: leadership, direction, accountability, coordination and control, innovation, external orientation, capability, motivation, and work environment and values.

Sources. Finnish Business and Policy Forum (EVA): *Female leadership and firm profitability*, EVA analysis No. 3 (Helsinki, 2007); McKinsey & Company: *Women matter: Gender diversity, a corporate performance driver* (2007).

Case study 11: Diversity management in European companies

The European Commission commissioned two studies in 2005 and 2008 to map diversity management practices in European companies. The two surveys were both conducted among member companies of the European Business Test Panel (EBTP). The 2008 survey verified the conclusion that, compared to 2005, an increasing proportion of companies recognize the links between diversity and good business performance.

Of the 335 companies participating in the 2008 survey, 56 per cent had established some kind of an equality and diversity policy. Of these policies, 25 per cent covered all six grounds of discrimination prohibited under European law (gender, age, ethnicity and race, disability, religion and belief, and sexual orientation), whereas 64 per cent covered only some grounds, and 12 per cent covered only one ground. The equality and diversity policies most often addressed issues related to staff recruitment, retention and management (93 per cent), organizational culture (75 per cent), and work-life balance (70 per cent). One quarter of the companies with equality and diversity policies had also adopted affirmative action measures, setting targets for the recruitment, training, or promotion of staff from under-represented groups.

Almost two-thirds of the surveyed companies recognized that implementation of equality and diversity policies had made a positive impact upon their business. The most common benefits included improved employee motivation and efficiency; access to a new labour pool; company reputation, corporate image and good community relations; recruitment of high-quality employees; and opportunities for innovation and creativity. The links between innovation and diversity were recognized by 63 per cent of the companies. Diversity-led innovation had increased significantly more in companies implementing affirmative action measures (83 per cent), compared to companies without such measures (55 per cent). These benefits were equally recognized both in SMEs and in large and very large companies.

Source. European Commission: *Diversity management in 2008: Research with the European Business Test Panel* (2008).

Case study 12: Discriminatory use of aptitude tests – United Kingdom

Ms. Mallidi, an Asian woman who had worked for the Post Office on a casual basis for a number of years, was asked to take a written aptitude test as a condition of remaining in employment on a contractual basis. She failed the test, and her employment was terminated. Later, Ms. Mallidi found out that Caucasian casual workers had been given temporary or permanent employment contracts without having to take the aptitude test. She felt unfairly treated, and decided to bring legal proceedings claiming racial discrimination.

The tribunal found that whole batches of casual workers had been given contracts without passing a test. Nor was the Post Office able to explain why workers had to sit the test at certain times and in certain cases, but not in others. The tribunal concluded that the only grounds for the Asian woman's dismissal was her race. It awarded Ms. Mallidi compensation of nearly £20,000, including £10,000 for injury to feelings.

Sources. *Mallidi v. The Post Office*, Case No. 2403719/98 [2001] DCLD 47; UK Commission for Racial Equality: *Statutory code of practice on racial equality in employment* (London, 2005).

2. Know who to contact for support

A key to successful implementation of equality practices in companies, especially in SMEs, is access to advice and support from external support organizations and business networks.¹ Given their ability to bring businesses together in sharing experiences and good practices to implement equality measures, employers' organizations play an important role in realizing the "good business" case for equality in companies.

Employers, unions, government and civil society all play an important role in disseminating information. At CAMFEBA, we draw on the experiences of our international counterparts at the International Labour Organization (ILO) as well as on those of other employers' organization in the region and others who have more experience than we do.

We hope the following list of links and resources will be useful to members and employers in general. Please do not hesitate to contact CAMFEBA at camfeba@camfeba.com or www.camfeba.com for more information.

Tips & tools 22: Useful contacts and websites

Cambodia employer resources	
Cambodian Federation of	www.camfeba.com or legal@camfeba.com

¹ See European Commission, 2005: *The business case for diversity, good practices in the workplace*; 2008: *Continuing the diversity journey: Business practices, perspectives and benefits* (Luxembourg).

Employers and Business Associations (CAMFEBA)	
Garment Manufacturers Association of Cambodia	www.gmac-cambodia.org
Malaysian Business Council of Cambodia (MBCC)	mbccambodia.org
Government and civil society resources	
Ministry of Women's Affairs	mwa.gov.kh/en/ministry-background
Ministry of Health (MoH)	www.moh.gov.kh/?lang=en
Ministry of Labour and Vocational Training (MoLVT)	www.rumdoul.com/mlvt/index.php?option=com_content&view=frontpage&Itemid=410&lang=en
National Employment Agency (NEA)	www.nea.gov.kh/jobshop
National Aid Authority	www.naa.org.kh
CARAM Cambodia	www.caramcambodia.org
National Center for Disabled Person (NCDP)	www.ncdpcam.org
Regional associations and websites	
Hong Kong Equal Opportunities Commission	www.eoc.org.hk
Singapore National Employers Federation (SNEF)	www.sgemployers.com
Singapore Tripartite Alliance for Fair Employment Practices (TAFEP)	www.fairemployment.sg
Malaysian Employers Federation (MEF)	www.mef.org.my/public/default.aspx
Employers Confederation	www.ecop.org.ph

of the Philippines (ECOP)	
Equality at Work in China Project (knowledge-sharing platform)	www.equalityatworkinchina.org
Other	
European Commission, Employment, Social Affairs and Equal Opportunities: The business case for diversity	www.ec.europa.eu/social
ILO Country Office for Thailand, Cambodia and Lao People's Democratic Republic	www.ilo.org/asia/offices/lang--en/index.htm
ILO Better Factories Cambodia (BFC) programme	www.betterfactories.org/
International Training Centre of the ILO (ITC-ILO)	www.itcilo.org/

3. Acronyms

ASEAN	Association of Southeast Asian Nations
BFC	Better Factories Cambodia
CAMFEBA	Cambodian Federation of Employers and Business Associations
CEACR	Committee of Experts on the Application of Conventions and Recommendations (ILO)
CEDAW	UN Committee on the Elimination of Discrimination against Women
CEO	Chief executive officer
CSR	Corporate social responsibility
DDO	Disability Discrimination Ordinance (Hong Kong, China)
EBTP	European Business Test Panel
ECOP	Employers Confederation of the Philippines
EOC	Equal Opportunities Commission (Hong Kong, China)

EVA	Finnish Business and Policy Forum
FDC	Fixed duration contract
FSDO	Family Status Discrimination Ordinance
HPWS	High Performance Work Systems
HR	Human resources
IFC	International Finance Corporation
ILO	International Labour Organization
IOE	International Organisation of Employers
ITC-ILO	International Training Centre of the ILO
MBCC	Malaysian Business Council of Cambodia
MEF	Malaysian Employers Federation
MoLVT	Ministry of Labour and Vocational Training
MoWA	Ministry of Women's Affairs
NCPP	National Centre for Partnership & Performance (Ireland)
PR	Public relations
SAI	Social Accountability International
SDO	Sex Discrimination Ordinance (Hong Kong, China)
SMEs	Small and medium enterprises
SNEF	Singapore National Employers Federation
SPG	ILO Social Protection and Gender Project
SSPA	Secondary School Places Allocation (Hong Kong, China)
TAFEP	Tripartite Alliance for Fair Employment Practices (Singapore)

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General Contact Information

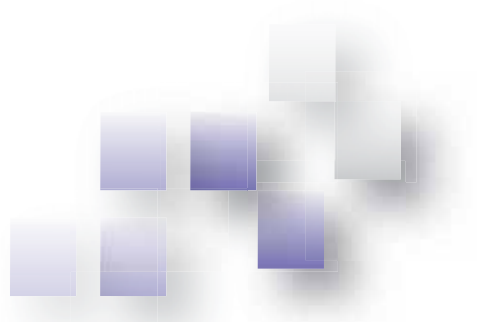
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