



KIMBERLEY PORTS AUTHORITY EQUAL OPPORTUNITY POLICY

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VARIATION RECORD

Version Number	Version Date	Brief Description of Change
1.0	October 2007	Original policy issued. Board approved on 25 October 2007.
1.1	13 November 2009	Replaced Clause 5, removed Human Rights from clause 8.4 added unlawful to clauses 9, 10 and 12.
1.2	November 2012	Amendments to: item 3 addition of extra grounds, items 7 and 8 amendment to Grievance officer, addition of Grievance Policy and removal of officer names.
2.0	December 2014	Updated for KPA, item 8.4 addition of Fair Work Commission.

1. SCOPE

This policy outlines the Kimberley Ports Authority's (**KPA's**) commitment to provide equal opportunity in all aspects of employment and in the provision of goods and services to customers (**Policy**). The Policy applies to job applicants, employees, contractors, consultants, agents, visitors and customers.

2. GENERAL POLICY

KPA is an equal opportunity employer. KPA is committed to making employment decisions based on merit without reference to irrelevant and unlawful considerations. KPA will treat all persons bound by this Policy equitably according to their skills, qualifications, abilities and achievements. All persons bound by this Policy are required to ensure that they treat all persons in the work environment fairly and do not discriminate against them unlawfully.

3. WHAT IS UNLAWFUL DISCRIMINATION?

Discrimination may be either direct or indirect.

Direct discrimination occurs when a person is treated less favourably than another person in the same or similar circumstances. Indirect discrimination occurs when policies or practices which appear at face value to be neutral, have a discriminatory impact on a particular person or group of people and the policy or practice is not justified.

Direct and indirect discrimination is only unlawful if the discrimination relates to one of the grounds listed in the State or Federal equal opportunity laws.

Under State or Federal equal opportunity laws the grounds on which it is unlawful to discriminate against a person are:

- Sex
- Marital status
- Pregnancy
- Family responsibilities
- Family status
- Race (colour, national, social or ethnic origin)
- Political or religious belief or activity
- Age
- Disability or impairment
- Trade union activity or membership
- Spent convictions
- Sexual orientation
- Gender history
- Pregnancy/potential pregnancy
- Breastfeeding

For example, equal opportunity laws prohibit discrimination against a person on the basis of their race. Therefore it would be unlawful direct discrimination to refuse to interview an applicant because they are Aboriginal.

An example of indirect discrimination is a policy that promotion be based on length of service. While the policy appears to be fair to all employees the policy may indirectly discriminate against female employees, because females are more likely to have taken career breaks to accommodate family responsibilities than male employees. In contrast a promotion policy based on merit where employees are assessed based on their skills, qualifications, abilities and achievements would not be unlawful because all applicants regardless of their gender or parental responsibilities would have the same promotional opportunities.

Discrimination does not need to be intentional to be unlawful.

4. IN WHAT CIRCUMSTANCES IS DISCRIMINATION UNLAWFUL?

It is unlawful to discriminate in any aspect of the employment relationship including:

- Recruitment and selection
- Promotion
- Terms and conditions of employment
- Employee benefits
- Assignments, transfers and secondments
- Dealings with clients
- Discipline
- Training, education and tuition assistance
- Work environment
- Supervision
- Termination of employment including dismissal, retrenchment and retirement

It is also unlawful to discriminate in the provision of goods and services to customers.

5. IN WHAT CIRCUMSTANCES IS DISCRIMINATION NOT UNLAWFUL?

This Policy does not prevent discrimination which is authorised by legislation. For example it is not unlawful for an employer to implement measures intended to create equality or to meet special needs.

6. WHO IS RESPONSIBLE FOR THE IMPLEMENTATION OF THIS POLICY?

All persons bound by this Policy have a legal responsibility not to behave in a discriminatory manner. It is the responsibility of every person bound by this Policy to take action to prevent the occurrence of unlawful discrimination. Failure to do so may result in disciplinary action.

KPA has a legal responsibility to take all reasonable steps to ensure the workplace is free from unlawful discrimination. KPA may be held liable for the conduct of a person who behaves in a discriminatory manner in breach of this policy. Legal liability and damages may also be imposed on any individual found guilty of unlawful discrimination and any other individual who has failed to act to prevent discrimination occurring.

7. GRIEVANCE OFFICER

To ensure that this policy is properly implemented KPA will appoint one or more Grievance Officers.

A Grievance Officer can provide further information in relation to this Policy and the handling of complaints. However a Grievance Officer cannot give an opinion on the merits of a complaint.

8. COMPLAINT PROCESS

8.1. Reporting of Incidents

If a person believes that they are the subject of unlawful discrimination or that another individual is acting in a discriminatory manner then they must immediately bring the matter to the attention of their supervisor or Grievance Officer.

A person who makes a complaint will not be victimized, penalized or disadvantaged as a result of making a complaint provided that the complaint is made honestly and fairly. Persons who make false or malicious complaints will however be subject to disciplinary action and may be subject to legal action such as defamation proceedings.

8.2. Investigation

Allegations of unlawful discrimination will be promptly, fully and impartially investigated in accordance with KPA's Grievance Policy.

Any person about whom a complaint is made will be entitled to know the details of the allegations made against them and be given an opportunity to respond to those allegations.

All parties will be entitled to be accompanied by a support person at any meeting in relation to the investigation of the complaint.

8.3. Confidentiality

All persons involved in the investigation of a complaint, including the parties and any witnesses must keep information about the complaint confidential except where disclosure is required for the purposes of the investigation or by law. Breach of confidentiality is a disciplinary offence and will be dealt with accordingly.

8.4. Outcomes

KPA will take appropriate action to ensure that any unlawful discrimination found to exist does not continue. Anyone found to have breached this policy or the law or to have made a false or malicious complaint will be subject to disciplinary action. This may include, but is not limited to the following:

- Counselling
- Apology
- Warning
- Training
- Demotion
- Suspension
- Dismissal

A complainant who is not satisfied with the outcome of an investigation can contact an external agency such as the Equal Opportunity Commission and/or Fair Work Commission for advice or help.