

<b>POLICY- Non-Discrimination &amp; Harassment</b>	
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## **A. NON-DISCRIMINATION AND HARASSMENT POLICY**

In our Code of Conduct “What We Stand For”, we state that the Group promotes equal opportunity for each Employee regardless of age, race, gender, sexual orientation or preference, religion, national origin, marital status or disability. The Group therefore prohibits any discrimination in the hiring, discharging, promotion, training, compensation or benefits offered to applicants or Employees on the basis of race, sex, religion, age and disability. The Group also respects the privacy and dignity of all Employees, and expects the same conduct from all Employees.

Employees are reminded of their existing responsibilities and rights in respect of the work environment. For example, sexual harassment or harassment of any kind is strictly prohibited. Furthermore, the Group prohibits any actions by an Employee who libels, slanders, disparages or defames another Employee within the Group or the Group itself which would render the work environment hostile or intimidating.

## **B. CODE OF PRACTICE ON EMPLOYMENT UNDER THE RACE DISCRIMINATION ORDINANCE**

Notwithstanding the above Group policy, a statutory law - the Race Discrimination Ordinance (RDO) - was recently enacted in Hong Kong with its main objective to make discrimination, harassment and vilification on the grounds of race unlawful; and giving the Equal Opportunities Commission (EOC) the responsibility of eliminating such discrimination, harassment and vilification as well as promoting equality and harmony between people of different races.

To promote racial equality and harmony in the workplace and to prevent discrimination and harassment on the grounds of race and other unlawful acts, the EOC has subsequently developed a Code of Practice (“the Code”) to encourage employers, employees and other concerned parties to promote racial equality and harmony in the workplace by adopting good practice, and to help them to understand their respective rights and responsibilities under the RDO so that they will respect, and refrain from infringing the rights of other people.

The RDO and the Code applies to everyone in the Group. It is important that you understand their contents.

Set out below are extracts of the principles and concepts of how the RDO may be applied in the employment field and some relevant examples of good practice to be adopted in the workplace for promoting non-racial discrimination and harassment.

## B.1 WHAT IS MEANT BY “RACE” UNDER THE RDO

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The RDO provides that “race” means a person’s race, colour, descent, national or ethnic origin. A racial group is a group of persons defined by reference to these characteristics.

## B.2. SCOPE OF THE RDO

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The RDO has application to the field of employment, which includes employment as well as other occupational relationships and matters. The RDO defines “employment” as a contract of service or apprenticeship, or a contract to personally do any work. This definition of employment is wider than under the common law or labour legislation. Individuals who are not employees under the common law or labour legislation are protected from discrimination and harassment under the RDO if they fall within the RDO definition of employment.

The RDO applies to all employment situations, unless the employee works wholly or mainly outside Hong Kong, or works wholly outside Hong Kong on a Hong Kong registered ship or aircraft.

The RDO also applies to individuals who are contract workers, either employed by a contractor or a sub-contractor of a principal.

## B.3 TYPES OF DISCRIMINATION UNDER THE RDO

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B.3.1 Direct discrimination: This occurs when person A belonging to one racial group is treated less favourably than person B belonging to a different racial group on the grounds of person A’s race when person A and person B are in the same or materially similar situation.

B.3.2 Indirect discrimination: This occurs when a person applies an apparently non-discriminatory requirement or condition on everyone of all racial groups, but:

- (a) Only a considerably smaller proportion of persons from a particular racial group can meet the requirement or condition than the proportion of persons not from that racial group;
- (b) The person applying the requirement or condition cannot show the requirement or condition to be justified on non-racial grounds;
- (c) The requirement or condition is to the detriment of a person of that particular racial group because he or she cannot meet it.

Nevertheless, the RDO provides that a requirement or condition is justifiable if it serves a legitimate objective and bears a rational and proportionate connection to the objectives. To determine whether a requirement or condition is justifiable, each case has to be considered on its own merits, considering any discriminatory

effects against any significant degree of increased cost, decreased efficiency, or serious safety problem in accommodating individuals from particular racial groups.

B.3.3. Discrimination on the grounds of near relative's race. A "near relative" means a person's spouse, parent or child (including born out of wedlock, adopted or step child), grandparent or grandchild, sibling and in-laws.

B.3.4. Discrimination by way of victimization. This happens if a person is treated less favourably than other persons by reason that this person has done or intends to do, or is suspected to have done or intends (a) to bring proceedings under the RDO; (b) to give information or evidence in connection with proceedings under the RDO; (c) to do anything under or by reference to the RDO; (d) to allege that a person has contravened the RDO except where the allegation is false and not made in good faith.

## B.4. WHAT IS NOT REGARDED AS AN ACT DONE ON THE GROUNDS OF RACE UNDER THE RDO

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The RDO provides that acts done on the grounds of the following matters do not constitute requirements or conditions within the definition of indirect discrimination:

- (a) Whether or not a person is an indigenous villager;
- (b) Whether or not a person is a permanent resident, or has the right of abode or right to land, or is subject to any restriction or condition of stay, or has permission to land and remain in Hong Kong;
- (c) How long is a person's length of residency in Hong Kong;
- (d) Whether or not a person has a particular nationality and citizenship.

## B.5 ACTS ALLOWED UNDER THE RDO

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- (a) Employment may be declined on the grounds of race because Genuine Occupational Qualification applies to that particular job.
- (b) Training for skills to be used outside Hong Kong for the benefit of a person employed in Hong Kong but who is not ordinarily resident in Hong Kong.
- (c) A person is recruited or transferred from outside Hong Kong to work in Hong Kong where the work requires special skills, knowledge or experience which is not readily available in Hong Kong.
- (d) Existing local and overseas terms of employment.
- (e) Positive action to be taken to assist racial groups who have been disadvantaged in the past.

## B.6 RIGHTS AND RESPONSIBILITIES OF EMPLOYEES

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All employees have responsibilities as well as rights in respect of the work environment that is created. Racial harassment, particularly in its less severe forms, can be part of the usual code of behavior in a workplace.

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Employees must not take part in, or encourage, condone or gossip about cases of harassment or bullying. Examples of unacceptable conduct include:

- (a) Racially derogatory remarks or insults, for example, name calling of persons of certain racial groups;
- (b) Display of graffiti or slogans or other objects offensive to certain racial groups;
- (c) Racist jokes, banter, ridicule or taunts; for example, laughing at the accent or habits of people belonging to certain racial groups;
- (d) Ostracize people on the grounds that they belong to certain racial groups;
- (e) Using a disparaging or offensive tone when communicating with persons on the grounds that they belong to certain racial groups;
- (f) Imposing excessive workloads or unrealistic performance targets on persons on the grounds of their race, colour, descent, national or ethnic origins;
- (g) Unnecessarily picking on persons from particular racial groups.

An employee may be personally liable for acts committed by him/her in the course of his/her employment.

## B.7 RECOMMENDATION TO EMPLOYEES

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Employees are recommended to:

- (a) Observe the requirement of the RDO and follow the recommendation of the Code;
- (b) Become familiar with and follow the Group's Non-discrimination and Harassment Policy;
- (c) Respect the racial identity of fellow employees and refrain from infringing their rights to work free of discrimination and harassment on the grounds of race;
- (d) Cooperate with measures taken by the management to promote equal opportunities and prevent discrimination, harassment and vilification on the grounds of race;
- (e) Take part in training related to equal opportunities.

## C. COMPLIANCE WITH THE POLICY AND THE CODE

This Policy and the Code should be read in the light of and subject to the RDO. It should be read as a whole and in the spirit of promoting racial equality. If there is any doubt regarding the application or interpretation of this Policy, employees may choose to direct their questions to the Group Human Resources Department or their manager / directors for clarification. Otherwise, employees at all times have the option of seeking external assistance, such as lodging a complaint with the EOC or bringing legal proceedings in the District Court.

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Failure to comply with the Policy and the Code will be regarded as a serious breach of Group discipline and may result in Summary Dismissal or disciplinary action against the Employee concerned. The Group will take appropriate and immediate action on any complaints about discrimination or harassment under the RDO.

## APPROVAL LIST

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## FAMILIARISATION LIST

All Wallem Group employees

## REVISION HISTORY

Date	Version number	Revision description	Developed by (Name, Role)
-	1.0	Initial edition	-