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Section B – Employment Conditions and Benefits		

Equal Employment Opportunity and Anti-Discrimination Policy

Related Policies	<ul style="list-style-type: none">▪ Code of Conduct▪ Harassment and Bullying▪ Health and Safety▪ Induction▪ Issues and Disputes▪ Probation▪ Reconciliation Action Plan (RAP)
Related Documents	<ul style="list-style-type: none">▪ Fair Treatment Policy Statement

1. Introduction

TFSS is an equal opportunity employer. In keeping with the principles of Equal Employment Opportunities, TFSS is committed to promoting a workplace where employees enjoy equal employment opportunities and are free from discrimination.

Policy purpose:

This *Equal Employment and Anti-Discrimination Policy* summarises the EEO standards applicable at TFSS. It is to be used as a guide by managers and employees to set up and maintain systems and procedures that promote fairness and equity in the workplace.

This policy aims to provide TFSS employees with an understanding of the organisation's obligations under the *Anti-Discrimination Act 1977(NSW)*. It also identifies employee's responsibilities in maintaining a safe workplace that is free from discrimination, harassment and facilitates mutual respect. TFSS also acknowledge that eliminating discrimination from the workplace is good business practice as it helps build a positive and productive work environment.

Any form of discrimination, as outlined in this policy, is totally unacceptable and will not be tolerated at TFSS under any circumstances.

The HR Officer is TFSS's representative responsible for EEO at TFSS. The HR Officer will liaise with employees their support Contact Officer [Quality Assurance Coordinator] and direct line managers to find a resolution for any EEO and discrimination issues in the workplace.

When read in conjunction with the *Issues and Disputes Policy*, this policy also provides a mechanism for dealing with EEO breaches and incidents of discrimination should they arise. This policy is also closely linked to our *Harassment and Bullying Policy*.

2. Who is covered by this Policy?

Policy scope: This Policy applies to all persons including: senior management; full-time, part-time, casual employees, contractors and volunteers who are engaged to work or volunteer at any TFSS locations and at any other location on behalf of TFSS. They are collectively referred to as employees or volunteers in this Policy, unless specifically referenced.

EEO and anti-discrimination legislation covers all categories of employee or potential employee in the workplace including:

- Job applicants
- Probationers
- Full-time employees
- Part-time employees
- Casual employees
- Temporary employees
- Volunteers
- Workplace students
- Contractors

The "workplace" is defined as - the physical location where someone works. TFSS has a number of locations where workplace activities and functions are conducted other than the normal place of business -e.g. client's premises, conference facilities, community events.

EEO and anti-discrimination legislation covers all stages and conditions of employment including:

- Recruitment advertising
- The content of application forms
- Job offers
- Terms and conditions of employment
- Access to promotion, training and transfer opportunities
- Remuneration and other employment benefits
- Workplace conditions
- Dismissal, retrenchment and retirement

Discrimination can also be in breach of Health and Safety legislation if the physical or psychological health, safety or wellbeing of an employee is adversely affected.

3. What is Equal Employment Opportunity?

Equal Employment Opportunity (EEO) refers to the absence of discrimination and harassment in the workplace. It is based on treating people on their merits.

TFSS must comply with the Anti-Discrimination Act 1977(NSW). Under Federal and state law our organisation has a legal responsibility to take "all reasonable steps" to prevent the discrimination and harassment of employees.

At TFSS, we are committed to promoting a workplace where employees are treated on the basis of merit, in keeping with the principles of EEO. This covers all aspects of the employment relationship including recruitment and selection, promotion, transfer and training opportunities, remuneration and the benefits associated with employment, it also covers termination procedures.

These are summarised in our *Fair Treatment Policy Statement*, which is to be:

- Displayed on the employee noticeboard
- Explained to all new employees as part of their induction program.

4. What is Discrimination?

Discrimination is treating employees or potential employees unfairly or differently, based on a characteristic they are assumed to have, that is protected by law. Discrimination is any practice which makes distinctions between individuals or groups so as to advantage some and disadvantage others on the basis of their status (e.g. gender or race), their private life (e.g. religion or marital status), physical or mental condition, or the characteristics generally associated with their status or private life.

There are two types of discrimination:

1. Direct Discrimination
2. Indirect Discrimination.

Direct Discrimination

Is when someone is treated unfairly because of their age, sex, race, carer's responsibility, disability, homosexuality, marital status, HIV/AIDS or Transgender status compared to someone else who does not have those characteristics, in the same or similar circumstances.

For example, if a real estate agent tells an Aboriginal person they have no properties for rent but tells a person that does not identify as Aboriginal that they do, this may be direct race discrimination.

Indirect Discrimination

Is when there is a requirement or rule that is the same for everyone but in effect disadvantages people from a particular group more than people from other groups - unless the requirement is reasonable in the circumstances.

For example:

- an employer says that they need a person over 180cm tall to do a certain job, which could indirectly discriminate against women and some ethnic groups (sex or race discrimination);

4.1 What is Unlawful Discrimination?

Unlawful workplace discrimination occurs when an employer takes adverse action against an employee or prospective employee because of a person's their characteristics:

Discrimination on the basis of personal association with someone who has or is assumed to have a certain personal characteristic, is also against the law and in breach of TFSS Policy.

It is also against the law to victimise someone because they have made a formal complaint of discrimination.

Please note that harassment and bullying of others based on attributes covered under EEO and anti-discrimination legislation is also against the law. Please refer to our *Harassment and Bullying Policy*.

4.2 What is Adverse Action?

Adverse action can include action that is unlawful if it is taken for a discriminatory reason. The *Fair Work Act 2009 (Cth)* describes a number of adverse actions.

Adverse action taken by an employer includes doing, threatening or organising any of the following:

- dismissing an employee (e.g. termination, retrenchment/redundancy, constructive dismissal, retirement)
- injuring an employee in their employment (e.g. limiting access to training/development; limiting promotion opportunities or limiting access to resources)
- altering the position of an employee to the employee's detriment (e.g. demotion, rostering – access to overtime/shifts, classification pay rate, employee benefits);
- discriminating between an employee and other employees of the employer (e.g. comparative workload/work complexity, harassment/interpersonal conduct)
- refusing to employ a prospective employee
- discriminating against a prospective employee on the terms and conditions of offer of employment, or
- threatening to do any of the above

Examples of Inappropriate Behaviours that Constitute Discrimination

The following examples of inappropriate behaviour are in breach of EEO and anti-discrimination principals and will not be tolerated at TFSS. This list is not exhaustive.

- Using sexist or racist language
- Derogatory ethnic or racist jokes
- Humiliating pranks or putdowns
- Unreasonable rudeness
- Systematic targeting or scapegoating
- Stirring or taunting that is intended to provoke
- Intimidating, threatening or insidious behaviour
- Practical jokes based on a person's disability, race, sexual preference, etc.
- Saying or writing something insulting about a person on the basis of their gender, disability, race, etc.
- Unwelcome comments or questions about a person's sex life, appearance or dress
- Displaying offensive, explicit or pornographic calendars, literature, posters or other material

- Using technology such as email, screen savers, the internet or mobile telephones to access, store, display or distribute inappropriate material
- Not recruiting or promoting a person based on a personal attribute unrelated to their ability to do the job
- Excluding a person or group of people from access to training or work-related activities
- Promoting an employee based on an attribute that is not related to performance of the job e.g. promoting someone because of their gender.

Any TFSS employee displaying behaviours such as these which breach EEO and anti-discrimination principals will be subject to immediate disciplinary action which may lead to dismissal.

5. What is Reasonable Adjustment?

Equal Opportunity legislation outlines an employer's obligation to make "reasonable adjustments" for employees with a disability.

Reasonable adjustments are workplace changes that could be made to a position, an employment practice, the workplace or work-related environment to ensure equal opportunity for an employee with a disability to perform the inherent requirements of their position without imposing unjustifiable hardship on the organisation.

Examples of "reasonable adjustments" which can be undertaken with minimal disruption and expense could be, an employee's work location being moved closer to a printer OR working with an employee to structure their work day to include periods of sitting and periods of walking around.

When requested to make "reasonable adjustments" TFSS will review each case individually, discussing options with the employee and then considering whether the changes are necessary, possible and reasonable within the requirements of the law.

Further information is available from the relevant State Equal Opportunity and Human Rights Authority.

6. Dealing with Discrimination

6.1 Initially

If you, as an employee, believe that you have been or are being discriminated against, treated unfairly or harassed, follow the procedures outlined below:

1. If you can, make it very clear to the offender that their behaviour is discriminatory. This usually means confronting the person and asking them to stop.
2. If you would like assistance, information or mediation support then contact your Health and Safety Officer, Contact Officer or your Manager.
3. If you feel the situation is serious and/or beyond your individual control or has not been resolved through steps 1 and 2, you are able to make a formal written complaint.

Employees who witness discrimination also have an obligation to deal with the behaviour they have observed by reporting it to their Manager.

6.2 Formal Complaints and Complaint Investigation

Where a situation is not able to be resolved through mediation, the employee has the option of making a formal written complaint to the HR Officer. The written complaint must contain names of those the complaint is made against, a description of the situation(s) or incident(s) that have led to the complaint, dates of the incidents and the names of any witnesses.

The HR Officer is responsible for complaint investigation. In the event of a formal written complaint being made, the situation will be investigated in accordance with our *Issues and Disputes Policy*.

6.3 Complaint Resolution

Please refer to our *Issues and Disputes Policy* for information on the resolution of complaints. A complaint may be made to the Fair Work Commission or, where applicable, the relevant State Equal Opportunity and Human Rights Authority or the relevant State Health and Safety Authority.

7. Responsibilities

At TFSS, we take our EEO and anti-discrimination legal responsibilities very seriously and place the following expectations on our employees:

7.1 CEO

The CEO is responsible for:

1. Ensuring an EEO and Anti-Discrimination Awareness Program is provided for all employees at least once each year, including the following:
 - Confirming TFSS' commitment to providing a workplace free from discrimination and harassment by reissuing the *Fair Treatment Policy Statement*
 - Reminding managers, employees and volunteers of their responsibilities in the workplace
 - Reinforcing the *EEO and Anti-Discrimination Policy*, including the complaints resolution processes
2. All responsibilities listed in clause 7.2 below.

7.2 Senior and Service Stream Managers

Managers are responsible for:

1. Regularly promoting the philosophy of EEO and anti-discrimination at all levels within the organisation
2. Ensuring that EEO and anti-discrimination are discussed and reinforced at team meetings
3. Ensuring the *Fair Treatment Policy Statement* is displayed on the employee noticeboard
4. Ensuring all new employees and volunteers have read and understood the *EEO and Anti-Discrimination Policy* and the *Fair Treatment Policy Statement* as part of their induction program
5. Maintaining a harassment and discrimination free work environment
6. Monitoring the work environment to ensure that acceptable standards of conduct are consistently displayed
7. Taking action if unacceptable standards of conduct are observed.

All Managers will operate under the following code of conduct:

- All complaints will be treated seriously and sympathetically under the strictest confidence
- All complaints will be investigated impartially – both sides will be fairly and fully investigated
- No action will be taken until the matter is fully investigated and the CEO has been informed
- Complainant, respondents and witnesses will not be victimised in any way.

7.3 The HR Officer

The HR officer the organisational representative for EEO and anti-discrimination matters.

Their responsibilities are to:

1. Be a first point of contact for people who have concerns about inappropriate behaviour and to provide support for these people.
2. Act impartially when involved in investigating complaints of discrimination, harassment or bullying in the workplace.
3. Know the organisation's procedures for resolution of complaints.
4. Maintain confidentiality.
5. Assist the employee in the resolution of the complaint.

The Contact Officer is the next point of contact and will operate under and follow the same code of conduct as the HR Officer:

- All complaints will be treated seriously and sympathetically under the strictest confidence
- All complaints will be investigated impartially – both sides will be fairly and fully investigated
- No action will be taken until the matter is fully investigated and the CEO has been informed
- Complainant, respondents and witnesses will not be victimised in any way.

7.4 Employees and Volunteers

All employees and volunteers have an obligation to ensure their own behaviour and the behaviour of others in the workplace does not contravene legislation and this policy.

Employees and volunteers are responsible for:

1. Treating all colleagues, clients and others in the workplace fairly and impartially.
2. Respecting the diversity of colleagues, clients and others in the workplace.
3. Promoting and modelling appropriate standards of behaviour at all times.
4. Reporting any incidents of discrimination, they may see happening around them to their Direct line Manager, HR Officer or Contact Officer.
5. Ensuring that if involved in complaints, confidentiality is maintained.

7.5 Non-Employees

All non-employees, such as clients, customers, visitors and contractors have an obligation to ensure their own behaviour in the workplace does not contravene legislation.

Any discrimination or harassment by these non-employees will not be tolerated and may lead to termination of contracts or suspension of services, as appropriate

Should anyone observe unacceptable behaviour displayed by one of TFSS' employees, volunteers or non-employees, directed towards one of our employees, volunteers or other persons engaged with the organisation, it is their responsibility to immediately notify their Direct Line Manager, HR officer or Contact Officer.

If TFSS can show that it has taken all reasonable steps to prevent discrimination and harassment, it may be possible that some legal liability will rest with the particular employee(s) who caused the problem.

8. Non-Compliance and Policy Breaches

Employees who are not fully compliant with TFSS' EEO and Anti-Discrimination Policy will be provided with additional information, instruction training or supervisory support in keeping with our Training and Development Policy and Performance Improvement Policy.

Employees who are in blatant breach of TFSS' EEO and Anti-Discrimination Policy and who have subsequently placed the organisation at risk will be subject to disciplinary action that may lead to termination of employment in keeping with our Performance Improvement Policy.

Policy Review

This policy replaces TFSS prior policy that relates to EEO and Anti Discrimination and will be reviewed and will be updated every two years unless a review is triggered earlier due to legislative changes, or changes in business needs.

Where to go for more information

TFSS CEO

Your Direct Line Manager or HR Officer

Your Contact Officer

Your Health and Safety Officer

NSW Anti-Discrimination Board – www.antidiscrimination.justice.nsw.gov.au ☎ 1800 670 812

Fair Work Commission – www.fwc.gov.au – ☎ 1300 799 675

Australian Human Rights Commission – www.hreoc.gov.au ☎ 1300 656 419

Your Health & Safety Statutory Authority – Safework in NSW – ☎ 13 10 50 www.safework.nsw.gov.au

Assistance

If you require a translator or other assistance, phone 1800 800 110 or 131 450

If you are a Text Telephone (TTY) user, phone 1800 555 677 then ask for 1800 800 110

If you are a Speak and Listen (speech-to-speech relay) user, phone 1800 555 727 then ask for 1800 800 110

Legislation, Standards and Compliance Codes

National

- Age Discrimination Act 2004 (Cth)* – www.comlaw.gov.au
- Australian Human Rights Commission Act 1986 (Cth)* – www.comlaw.gov.au
- Australian Standard AS/NZS 4801:2001 – Occupational Health and Safety Management Systems* – www.saiglobal.com
- Disability Discrimination Act 1992 (Cth)* – www.comlaw.gov.au
- Fair Work Act 2009 (Cth)* – www.comlaw.gov.au
- Fair Work Amendment Act 2013 (Cth)* – www.comlaw.gov.au
- Fair Work Regulations 2009 (Cth)* – www.comlaw.gov.au
- Privacy Act 1988 (Cth)* – www.comlaw.gov.au
- Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)* – www.comlaw.gov.au
- Racial Discrimination Act 1975 (Cth)* – www.comlaw.gov.au
- Sex Discrimination Act 1984 (Cth)* – www.comlaw.gov.au
- Work Health and Safety Act 2011 (Cth)* – www.comlaw.gov.au
- Workplace Gender Equality Act 2012 (Cth)* – www.comlaw.gov.au

New South Wales

- Anti-Discrimination Act 1977 (NSW)* – www.legislation.nsw.gov.au
- Work Health and Safety Act 2011 (NSW)* – www.legislation.nsw.gov.au
- Work Health and Safety Regulations 2017 (NSW)*

TAMWORTH FAMILY SUPPORT SERVICE LTD. ONLY:	
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