Culturally Sensitive Enough? (Race Discrimination)

Since the Race Discrimination Ordinance (RDO) came into effect in 2009, the majority of complaints received by the EOC were related to the provision of goods, facilities and services.

◆ The Complaint

Laila is a Muslim originally from Pakistan. She enjoyed swimming in her neighbourhood pool. Due to her religious customs, Laila preferred to dress modestly. Therefore, when swimming, she wore a T-shirt and long pants (covering the knees) on top of her swimsuit. She had always worn such an outfit at her local pool without a problem.

However, one day, she was stopped by a pool staff member for her attire. She alleged that she had seen other Chinese women in a very similar type of outfit using the facility. Laila felt she was unfairly treated and decided to lodge a complaint of race discrimination with the EOC against the facility management.

✓ What the EOC did

The EOC case officer contacted the pool's facility manager and explained to them the provisions of the RDO.

Under Section 27 of the RDO, it is unlawful to discriminate against a person on the ground of race when providing goods, facilities and services. While the RDO does not apply to discrimination on the ground of religion, some requirements or conditions relating to religion may result in indirect discrimination against certain

racial groups, in which case the RDO may apply. In this case, many female Muslims dress modestly according to their religious customs, which was the reason Laila wished to wear a T-shirt and pants over her swimsuit. If the swimming pool had a policy against wearing such attire, it may be discriminatory against Muslims and indirectly against Pakistanis, most of whom are Muslims, and the RDO would be applicable.

The facility management denied the allegation of race discrimination and explained that this type of clothing for swimming was actually allowed according to their policy. The facility manager claimed the incident might have arisen from a misunderstanding between Laila and the swimming pool staff about whether Laila had worn a bathing suit underneath her T-shirt.

Both parties agreed to settle the matter through conciliation. The concerned staff agreed to apologise to Laila for creating unpleasant sentiments for her. Confirmation was also given by the swimming pool's management that any person wearing a loose T-shirt and loose pants (covering the knees) over their swimsuit are permitted to use the swimming pool.

Points to Note:

- Under the law, intent to discriminate is irrelevant. Both direct and indirect racially discriminatory acts which arise from cultural insensitivity, even without the intention to discriminate, may still be unlawful.

- Employers may be, under the RDO, vicariously responsible for any discriminatory act done by their employees in the course of their employment, even if the employers did not know or did not approve of what the employees have done. Employers are encouraged to avoid inadvertent discrimination by providing their employees, especially those who have customer-facing responsibilities, with the knowledge and skills to sensitively deal with different customer groups.

- The EOC encourages providers of goods, facilities and services to cater for a diverse range of customers, as this not only promotes racial harmony, but also broadens business opportunities.