

裙褲分「歧」 "Cracking" the Dress Code

投訴內容

X小姐在某中學任職教師。新學年開始前的首次職員會議上，校長宣佈所有女教師均需穿連衣裙或半身裙上班。

X老師首天回校穿了針織上衣和長褲，校長因而召見她，指她沒有按要求穿著連衣裙或半身裙上班。校長其後同意，X老師如不想穿裙，可選擇穿長褲套裝(即長褲配搭相襯的外套)。儘管雙方有此共識，但X老師仍於不同場合因她並非穿裙而受到批評，有時甚至是在學生面前。反觀男教師，除了不可穿T恤和牛仔褲外，並沒有被限制穿特定類別的服飾。X老師對男教師可穿較不正統的西褲，又毋需加穿外套而感到不忿。

X老師認為校方歧視她，因校方不必要地限制她對上班服的選擇，對男教師卻沒有相應的限制。X老師感到受屈辱，於是向平機會投訴學校性別歧視。

平機會的行動

收到投訴後，平機會的個案主任就事件展開調查，嘗試以調解平息雙方爭端，但未能成功。其後，基於本個案能帶出僱傭範疇的性別歧視問題，即僱主定出的限制，令某性別比另一性別受到較差待遇，因此，平機會為本個案提供法律協助。在平機會發出入稟狀後，校方最終同意向X老師發出道歉信和賠償金錢，以解決事件，亦同意檢討校內的衣著守則。

The complaint

Ms X was employed as a teacher by a secondary school. At the first staff meeting before the school year commenced, the school principal announced that all female teachers were required to wear a dress or a skirt to work.

Ms X reported to the school in a knitted top and dress pants on the first school day. She was summoned by the principal because she did not wear a dress or a skirt as required. The principal later agreed that Ms X could wear a pant suit consisting of pants and a matching jacket if she would not wear a dress or a skirt. Despite this agreement, however, Ms X was repeatedly criticised for not wearing a dress or a skirt on various occasions, sometimes even when students were around. On the other hand, male teachers were not confined to wearing any particular type of clothing apart from the ban on t-shirts and jeans. Ms X complained that male teachers were allowed to wear less formal pants, and they were not required to put on a jacket.

Ms X believed the school had discriminated against her because the school unnecessarily restricted her choice of work wear while the male teachers were not subjected to corresponding requirements. Feeling humiliated, Ms X lodged a complaint of sex discrimination against the school with the Equal Opportunities Commission (EOC).

What the EOC did

Upon receiving the complaint, the EOC case officer investigated into the matter and tried to settle the disagreement by way of conciliation. However, this attempt was unsuccessful. The EOC later granted legal assistance in this case on the basis that the case raises a question of sex discrimination in the field of employment, where a restriction affects members of one gender less favourably than members of the other gender. After issuing a writ, the school finally agreed to settle the matter by giving an apology and monetary compensation to Ms X. The school also undertook to review its dress code.



法理依據 *What the law says*

雖然反歧視條例沒有明確地把訂立衣著守則列作違法，但僱主應避免訂立基於性別、懷孕、殘疾或種族而作出的衣著守則，以免不慎觸犯反歧視法例。例如，若規定僱員穿著大方得體，以整潔端莊的儀容示人，則應公平地實施，同時適用於男女員工。

此外，僱主應嘗試了解殘疾人士和不同宗教背景人士的特別需要，而考慮酌情豁免。不同年代社會大眾對合適工作服或有不同標準，僱主亦宜與時並進，定期檢討守則，方為良策。

While the anti-discrimination ordinance does not explicitly state that dress codes are unlawful, employers should avoid setting dress codes that may inadvertently discriminate on grounds of gender, pregnancy, disability or race. For instance, any rule which requires members of both sexes to dress in a comparable standard of smartness and conventionality in order to present a clean and decent appearance should be applied in an even-handed manner.

In addition, employers should be sensitive to consider exemptions for people with special needs due to their disabilities or religious backgrounds. As a good practice, employers should review the code periodically in order to take into account changes in society's attitude toward appropriate dress standards at work.

