



Pregnancy Discrimination 懷孕歧視



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION



晶晶的故事 JEANIE'S STORY

晶晶在甲公司工作了兩年，任職採購員。到第三年，晶晶有了身孕。之後，她的經理開始批評她的工作表現，又由於晶晶要做產前檢查和因懷孕偶有不適，而批評她請假太多。晶晶放完產假恢復上班後，老闆便宣稱不再需要她回來工作，把她開除。公司根據《僱傭條例》悉數支付她應得的全部補償金，並給她一封工作介紹信。

Jeanie had been with ABC Company for two years as a merchandiser and got pregnant in the third year. After that her manager started criticizing her work and making remarks that she took too much time off for antenatal appointments and pregnancy-related sickness. After Jeanie had resumed work from maternity leave, her employer announced that they no longer needed her service and dismissed her. She was duly paid all her entitlements under the Employment Ordinance and given an employment reference letter.

思考問題 Considerations

- 鑑於晶晶的產假和解僱時間相當接近，以及其經理所表現的態度，這是否一宗懷孕歧視個案？
Given the proximity of Jeanie's maternity leave and the dismissal, along with the attitude displayed by her manager, is this a case of pregnancy discrimination?
- 究竟甚麼是懷孕歧視？
What exactly is pregnancy discrimination?

懷孕歧視的定義 DEFINITION OF PREGNANCY DISCRIMINATION

懷孕歧視是指基於婦女懷孕而給予她較差的待遇。

《性別歧視條例》保障婦女在僱傭、提供貨品、設施及服務等範疇免受懷孕歧視。

Pregnancy discrimination means treating a woman less favourably because of her pregnancy.

The Sex Discrimination Ordinance (SDO) protects a woman from pregnancy discrimination in areas such as employment, and the provision of goods, facilities or services.

僱傭範疇的懷孕歧視

Pregnancy discrimination in employment

根據《性別歧視條例》，若任何香港機構的僱主基於婦女懷孕而使她受到不利或被解僱，即屬違法。條例對各類僱用方式(包括合約工作)都加以保障。

Under the SDO, it is unlawful for an employer of a Hong Kong establishment to subject a woman to a disadvantage or dismiss her on the ground of her pregnancy. All types of employment (including contract work) are covered under the law.

僱傭範疇中常見可能涉及懷孕歧視的例子包括以下因懷孕而遭遇到的情況：

Situations where pregnancy discrimination in employment are often seen to arise when an employee, because of pregnancy, is:



- 不獲聘用；
Not being hired for a job;



- 在沒有合理原因下在懷孕期間或放完產假恢復上班後立即被解僱；
Dismissed during pregnancy or upon return from maternity leave without justifiable causes;



- 不獲晉升或較佳的工作調遷；
Being bypassed for promotion or favourable transfer;



- 被降職或調職到較差的工作崗位；
Subjected to demotion or unfavourable transfer;



- 獲得較其他員工少的加薪或花紅；或
Being given less pay rise or bonus than other employees;
or



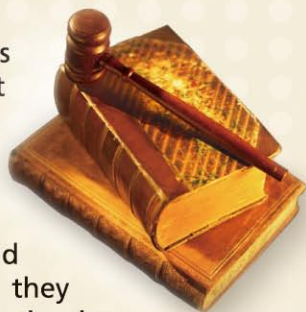
- 工作時間、角色和職務在沒有合理原因下被更改。
Subjected to changes in working hours, roles and duties without justifiable causes.

僱主可如何防止歧視

What employers can do to prevent discrimination

僱主不應對懷孕婦女的工作能力作出假設，因為婦女懷孕並不表示沒有能力執行職務或工作效率降低。僱主應注意機構與懷孕員工及懷孕求職者的權利和責任。僱主亦應遵守《性別歧視條例》和《僱傭條例》中的條文。

Employers should avoid making assumptions about the abilities of pregnant women. Just because a woman is pregnant does not mean she cannot perform her duties or is less effective at her work. Employers should be aware of the rights and responsibilities of both their organisations and pregnant employees and applicants. Employers should also ensure that they comply with the provisions of the Sex Discrimination Ordinance and the Employment Ordinance.



僱主可透過以下方法防止歧視：

Employers can help prevent discrimination by:

- 告知懷孕員工有關放產假和病假的權利和責任
Advising pregnant employees of their rights and responsibilities in relation to maternity and sick leave
- 就產前檢查及放產假、員工招聘、調職、工作表現評核、加薪和花紅制度，制定清晰劃一的政策
Having clear and consistent policies on prenatal check-up and maternity leave, staff recruitment, transfers, performance appraisals, pay rises and bonus system
- 為員工提供有關以上政策的培訓，鼓勵機構內建立互相瞭解及開明的文化
Providing training to staff in relation to these policies and encouraging a culture of understanding and openness



雯雯的故事 JASMINE'S STORY

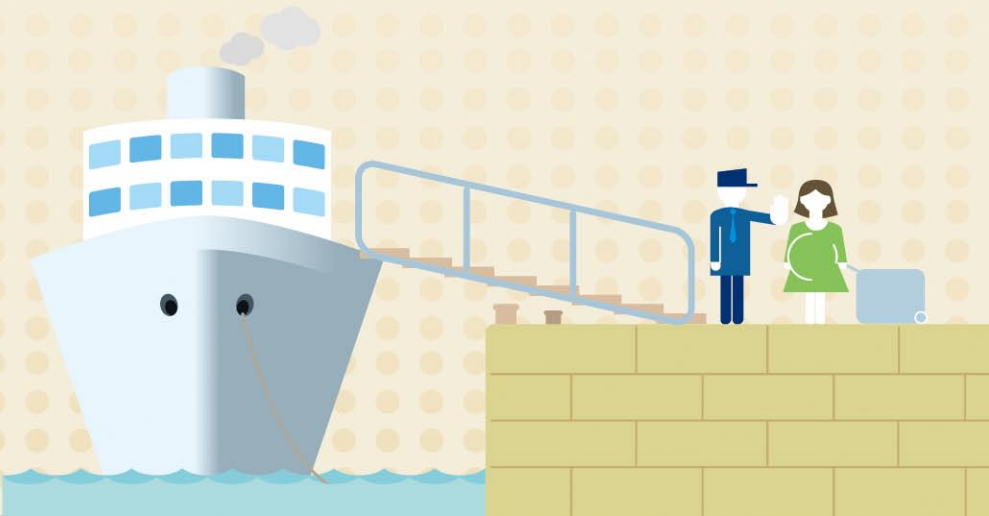
雯雯已懷孕30個星期，她想與家人享受為期4天的郵輪假期。當她抵達碼頭準備登船時，郵輪公司職員要求她出示醫生紙，證明她的身體狀況適合旅遊。雯雯未能出示有關證明書，所以被拒登船。

Jasmine was 30 weeks pregnant and wanted to go on a 4-day cruise holiday with her family. The staff of the cruise company asked her to produce a medical certificate proving that she was fit to travel when she arrived at the pier ready to embark. Jasmine was unable to produce such medical certificate and was therefore refused boarding.

思考問題 Considerations

- 郵輪公司要求雯雯出示醫生紙才可登船，若郵輪公司不能為這要求提出合理解釋，可構成懷孕歧視。

The requirement of a medical certificate may constitute pregnancy discrimination if the cruise company cannot provide justifiable reasons for imposing such a requirement on Jasmine.



提供貨品、設施或服務

Provision of goods, facilities or services (GFS)

根據《性別歧視條例》，除非貨品、設施或服務提供者有合理理由(如健康及安全考慮)，否則，基於婦女懷孕，而不向她們提供貨品、設施或服務，屬於違法。

Under the SDO, it is unlawful for a provider of GFS to discriminate against a woman because of her pregnancy who seeks to obtain or use its goods, facilities or services, unless there are reasonable justifications, such as health and safety considerations.

提供貨品、設施或服務範疇中可能涉及懷孕歧視的例子： Situations where pregnancy discrimination in GFS are often seen to arise:



- 旅遊保險公司拒絕賠償因懷孕而取消行程的損失
Travel insurance companies rejecting claims for losses arising from tour cancellations due to pregnancy



- 假期郵輪拒絕讓懷孕婦女登船
Holiday cruises refusing to allow pregnant women on board



- 美容院拒絕向懷孕婦女提供服務
Beauty salons not offering services to pregnant women



- 拒絕出租住所給懷孕婦女
Refusing to rent properties to pregnant women

有關貨品、設施或服務提供的建議

Advice for GFS providers to prevent discrimination

貨品、設施或服務提供者基於婦女懷孕而給予她們較差的待遇，屬於違法。雖然懷孕婦女接受某些服務或使用某類設施時或需考慮安全問題，但貨品、設施或服務提供者不應在沒有合理證據的支持下，單憑定型假設，來制訂安全規定政策。

It is unlawful for a provider of GFS to discriminate against a woman because of her pregnancy. Although there may be safety concerns with pregnant women receiving certain services or using some facilities, a GFS provider's policies on safety restrictions should not be based on stereotypical assumptions without reasonable supporting proof.



若受到懷孕歧視，應如何應付？

What can you do if you suffer from pregnancy discrimination?



- 記下所發生的事情
Write down what has happened



- 保留醫生證明書
Keep medical certificates



- 向你的僱主或服務提供者表達意見
Talk to your employer or the service provider



- 繼續盡心工作，並記錄工作情況
Continue doing a good job and keep a record of your work



- 比對公司對其他女性員工的待遇
Find out how other female employees have been treated



- 與你的僱主或服務提供者尋求解決方法
Resolve the problem with your employer or the service provider



- 向平機會提出投訴，以進行調查和調解
Lodge a complaint with the EOC for investigation and conciliation



如欲查詢進一步資料或有關此題目的培訓，請聯絡：

For further information or training on this issue, please contact :

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電話： 2511-8211 (一般查詢)
2106-2155 (培訓課程)

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僱主體諒與關懷
僱員盡心表現佳



**A Good Employer
Means Good Employees**



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION

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