

Job Application by Pregnant Women (Pregnancy Discrimination)

Not hiring a pregnant woman due to her pregnancy is a common situation of pregnancy discrimination in employment under the Sex Discrimination Ordinance (SDO).

◆ The Complaint

Ms A and Ms B were both pregnant and worked as security guards at an Estate. As the Estate's security service was contracted out on a 3-yearly basis, Ms A and Ms B's employment with the last contractor ended when its service tender ended. A new contractor (the Defendant) successfully won the service bid for the next three years. The Defendant held recruitment talks for the Estate's existing staff about employment prospects with the Defendant. During the Q&A session, staff from the Defendant stated that the company would not employ pregnant staff for safety reasons. Ms A and Ms B were deterred from applying for a job with the Defendant. They lodged a complaint with the EOC against the Defendant for pregnancy discrimination.

✓ What the EOC did

The EOC launched an investigation into these two cases after receiving the complaints lodged under the Sex Discrimination Ordinance (SDO). The Defendant denied discrimination. Conciliation between the parties was unsuccessful. After assessing the merits of each case, the EOC assisted Ms A and Ms B in commencing legal proceedings for pregnancy discrimination. Legal representation

and advice were provided by the EOC's lawyers, who also assisted in settlement negotiations with the Defendant. The parties to each case eventually reached a settlement. Ms A and Ms B each received a settlement sum as compensation.

Points to Note:

- It is unlawful under the SDO for an employer to subject a woman to a disadvantage, including in the recruitment process, or dismiss her on the ground of her pregnancy. All types of employment (including contract work) are protected under the ordinance.
- Acting upon stereotypical assumptions based on sex, marital status or pregnancy could lead to discrimination. Employers should adopt a set of job-related and non-discriminatory criteria for recruitment.
- Also, employees handling applications and conducting interviews should be trained to avoid acts of discrimination.