

Family or Job First (Family Status Discrimination)

We all have a responsibility to care for our family. But long working hours, a near absence of family-friendly work arrangements, and prevalent gender stereotypes mean that work-family balance remains difficult for many Hong Kong workers.

◆ **The Complaint**

Mrs. Ng, an executive at a financial institution, had to rush her son to a hospital late one night. He was diagnosed with acute respiratory disease and was immediately admitted given his critical condition.

Early the next morning, Mrs. Ng informed her supervisor and colleagues of her absence from work to take care of her son. Later in the day, the doctors informed her that her son needed to stay in the hospital for a few more days. She called her supervisor in the evening to request for another day off, but he curtly asked her whether she wanted her job or her family.

When Mrs. Ng went to work the next day she was asked to go to the conference room where her supervisor chided her. Two hours later, she received a phone call from the hospital asking her to see the doctor immediately as her son's condition had deteriorated. She requested her supervisor for an urgent leave but was denied. Left with no choice, she handed in her resignation and left.

Mrs. Ng later lodged a complaint with the EOC against the supervisor for discriminating against her and the company for being vicariously liable for the act of her superior.

✓ **What the EOC did**

Upon receiving the letter from Mrs. Ng, the EOC's case officer notified the company about the complaint.

The Family Status Discrimination Ordinance makes it unlawful for a person or an organization to discriminate against any individual on the basis of his/her family status, defined as a person's responsibility to take care of an immediate family member—a person related by blood, marriage, adoption or affinity. By denying Mrs. Ng an urgent leave despite her responsibility to look after her son, whom the law describes as her relative by blood, the company likely discriminated against her.

Both parties agreed for early conciliation and an agreement was reached. As requested by Mrs. Ng, the company provided a reference letter for her and also waived the payment, which she was supposed to make, in lieu of the notice period for leaving employment. Mrs. Ng decided not to pursue a case against her supervisor since he left the job after she filed a complaint with the EOC.

Points to Note:

- In considering family status, an operative factor concerns “the responsibility of care”, defined generally as a specific relationship of being usually responsible for the care of such a person (an immediate family member).
- Family-friendly employment policy can help to retain talent, and build staff morale. Research from Community Business, a non-governmental organization, has shown that nearly 40 percent of respondents would leave their current job for better work-life balance.
- Employers are vicariously responsible for the discriminatory acts of their employees, done in the course of their employment, whether or not these were done with the employer's knowledge or approval, unless the employer has taken reasonably practicable steps to prevent such acts from occurring. The EOC encourages employers to formulate a clear policy to eliminate discrimination on the ground of family status in the workplace.

Tip: For more information, refer to the EOC's Code of Practice on Employment under the FSDO.