

## Family Status Discrimination

### Family or Job First

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*Many people have responsibilities to care for their families. 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 the hospital late one night. He was diagnosed with acute respiratory disease and was immediately admitted given his critical condition.

Early next morning, Mrs Ng informed her supervisor and colleagues that she had to be absent from work for a day to take care of her son. Later that day, the doctor 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 for an urgent leave from her supervisor 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 supervisor.

## ★ 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 organisation to discriminate against any individual on the basis of his/her family status, which is 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 on 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 company after she filed a complaint with the EOC.

## ✦ Points to Note:

- In considering what constitutes “family status”, a factor for consideration is “the responsibility of care”, defined generally as a specific relationship of being usually responsible for the care of an immediate family member.
- Family-friendly employment policies can help retain talent and boost staff morale. A survey by Community Business, a non-governmental organisation, showed that nearly 40% of the respondents would leave their current jobs 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 employers’ knowledge or approval, unless the employers have taken reasonably practicable steps to prevent such acts from occurring. The EOC encourages employers to formulate clear policies to eliminate discrimination on the ground of family status in the workplace.