

Family Status Discrimination

Disqualified for Family Ties

Nowadays, both female and male workers bear family responsibilities such as the care of children and elderly relatives. Yet many face unfounded assumptions about their commitment to the job based on family responsibilities. This can negatively impact hiring decisions and may be unlawful.

The Complaint

Mona is a mother with a four-month-old baby. She applied for a junior manager post at a production house. She passed her first interview and was later invited for a second interview with a senior manager, Ms Wong.

During the interview, Ms Wong asked Mona if she had any children. Upon learning that Mona had a baby, Ms Wong enquired as to who would care for the child while Mona was at work. Mona replied that her mother would help her, but Ms Wong responded that Mona would miss her baby and take leave if her baby was sick, which would make other colleagues unhappy during busy periods at work.

Mona was distressed by Ms Wong's comments and cried. Ms Wong said she personally did not want staff to work overtime and told Mona that the fact that she had a young child would not be factored into the hiring decision. In the end, Mona did not get the job. She felt that this was due to her childcare responsibility, and lodged a complaint against the production house for family status discrimination with the EOC.

What the EOC did

The EOC case officer tried to facilitate a settlement by way of conciliation. However, the parties could not come to a settlement. The respondent attributed the rejection of Mona's candidacy to her

performance during the second interview, and denied that her family status was a factor. Mona later applied to the EOC for legal assistance, which was given.

Under the Family Status Discrimination Ordinance, it is unlawful to discriminate against a person based on family status in the way an employer determines who should be offered employment. Employers should ensure that, where it is necessary to assess whether personal circumstances will affect performance of the job (for example, where it involves extensive travel), interviewers should discuss this objectively with the applicant, avoiding questions about family status, children, and domestic obligations.

The case was eventually settled without going to the Court, with monetary compensation given to Mona.

Points to Note:

- An interviewer who seeks evidence of abilities and relies on facts rather than assumptions will have less tendency to be biased. Employers should ensure that all employees who may be involved in staff recruitment receive training on lawful, non-discriminatory practices.
- In line with good management practices, interviewers should only ask questions at job interviews that relate directly to the essential requirements of the job. For example, if it is an essential requirement of the job that the employee be available to work late on a regular basis, ask the applicant whether he/she is able to work late on a regular basis and avoid asking whether he/she has any family responsibilities.
- Employers should develop consistent selection criteria as one of the first steps in establishing a fair recruitment practice. The criteria should specifically relate to the job, such as the type of experience or skills required. From time to time, the criteria should be re-examined to see whether they need to be modified.