

Home Affairs Panel
Chief Council Secretary
(Attn: Miss Flora Tai)

5th July 2005

**Submission on the Public Consultation on Legislation against Racial Discrimination
For the Home Affairs Panel Meeting on 8th July 2005**

We support that the government should introduce the law against racial discrimination. We consider that new arrivals from Mainland China should be included in the category for protection.

Our view is that a new body be set up to enforce the law as it is a controversial piece of legislation affecting the cordial relationship of different races. The composition of this body must be carefully considered and members must be conversant with and had track records in this area of work. It is not a task that could not be lightly handled by any existing human rights organisation in Hong Kong.

We strongly oppose the Equal Opportunities Commission to handle the new anti-racial discrimination law because its composition, both at the executive and non-executive management level, lacks people with solid experience in this area.

Further, we oppose that the EOC be empowered to enforce the new anti-racial discrimination law because of the following reasons:

1. EOC Damaged Hong Kong's Reputation as an International City

In two newspaper reports of 5th July 2005, it was reported that a school in Hong Kong had organised a competition to identify 34 English mistakes in an EOC legal document. The two newspaper reports and the advertisement of the "EOC's English mistakes" competition are attached.

The newspaper reported that the EOC said the following about the competition, which we totally disagree:

- (i) Most of the English in the EOC legal document are legal jargons and commonly used in the legal profession.
- (ii) The legal English used in the EOC legal document is different from the ordinary English.
- (iii) The Court already accepted the English standard and the meaning of the language used in the EOC legal document.

By making such statements publicly, the EOC had done the following damages to Hong Kong as an international city with a high standard of legal and judiciary services as well as the proficiency in the use of the English language in Hong Kong:

- (i) It damaged the reputation of the **Judiciary** in Hong Kong in that judges accepted English standard in legal documents like those shown in the EOC's legal document.

- (ii) It damaged the reputation of the **legal professional** in Hong Kong in that lawyers' English standard are like those shown in the EOC's legal document.
- (iii) It damaged the reputation of **legal education** in Hong Kong in that the end-results of lawyers' English training are like those shown in the EOC's legal document.
- (iv) It damaged the reputation of **corporate governance** in Hong Kong in that senior management do not find problems with English standards like those shown in the EOC's legal document.
- (v) It damaged the reputation of the **human resources profession** in Hong Kong in that employees who require using English in their duties are nonetheless recruited with English standards like those shown in the EOC's legal document.

2. EOC was badly criticised by the Independent Panel of Inquiry into EOC

EOC was still in the implementation stage of the 130 recommendations in the three investigation reports. No one knows how it is proceeding and whether it was successful in the implementation.

The advertisement of the English mistakes of EOC's legal document came at a stage when EOC has not yet rid itself of the problems identified in the Independent Panel's report. There seems to be no ending to the problems at the EOC.

It is a powerful body with the right to sue for contravention of human rights. But there is no independent appeal or review system against its decision. In particular, there is **no independent body** to review its daily operation as well as the implementation of the recommendations. It should not be tasked with further law enforcement because so far its work performance has not come to prove that it is capable to do so. It is not worthy of consideration.

3. Many more problems identified in Legco Member Leung Kwok Hung's letter

We refer you to the submission of Hon Leung Kwok Hung under the reference number LC Paper No. CB(2)1985/04-05(01) found in the documents of the Home Affairs Panel meeting of 8th July 2005.

All of the questions are very crucial in determining whether the EOC should be tasked to enforce the new law on racial discrimination.

We urge that a new Human Rights Commission be set up in the future to enforce all discrimination laws and to disband the EOC for unsatisfactory performance so far identified in the three investigation reports.

Yours truly,

The EOC Concern Group

**The EOC Concern Group is an independent body of professionals that reviews the EOC's performance*

文章總數: 1 篇

隔牆有耳
A23

蘋果日報

李八方
2005-07-05

隔牆有耳

平機會被寸 英文錯漏百出

私校瑪利亞書院早前被平等機會委員會控告歧視一名患有直腸癌嘅殘疾男教師，最後俾法庭判處賠償接近二十萬。事件重未完結，瑪利亞書院同平機會之間對抗嘅戰場由法庭轉移至大眾媒介。

瑪利亞書院嘅日嘍報章刊登廣告，舉辦「英文改錯比賽——平機會法律文件錯漏百出」，列舉咗三十四段句子，叫人指出錯處，每項獎金五百蚊。

呢幾十段句子都係來自嗰場官司嘅法律文件，平機會認為，呢啲法律專用語句，未必係一般常用英語，而且英文係一個不斷演變嘅語文，有唔同嘅用法。無可置疑，瑪利亞書院呢個所謂比賽係有用意嘅，但係平機會亦無謂死雞撐飯蓋，「it must also knew (應為know)」、「he had underwent (應為undergone)」，呢啲小學程度嘅動詞時態常識都錯得，就確係離譜啲。

文章總數: 1 篇

港聞
A28

東方日報

2005-07-05

平機會法律文件多錯漏

【記者李雪慧報道】有私立中學昨日於報章刊登廣告，以「平機會法律文件錯漏百出」為題舉辦英文改錯比賽，列出三十四句聲稱取自平等機會委員會法律文件的錯誤英文句子，參加者找出一項錯處可得五百元獎金。有學者指部分句子錯處明顯，若法律文件有此錯誤「都幾離譜」。平機會回應，語句非來自平機會出版的公眾刊物，語句大部分是法律專用及常用語，應與一般常用英語有異。

瑪利亞書院英文學會於廣告中指出，平機會法律文件「原文錯誤重複多次，絕非careless mistake（不小心錯誤）」，錯誤包括時式、標點、漏字及贅詞等，參加者需要以權威性的資料來源如字典及書本引證最佳的答案，若眾參加者的答案俱佳，將會平分獎金。

比賽非針對某機構

瑪利亞書院校長李鳳琼表示，比賽由英文學會獨立舉辦，目的為推廣英語，獎金由校董會批出，學會之前亦曾舉辦類似活動，例如改錯廿三條諮詢文件、英文基準試及大學的信件等，比賽以學術研究為出發點，並非針對個別機構。

浸大英國語言文學系副教授楊素英表示，廣告列出的句子不乏明顯及簡單的錯誤，「有啲都錯得幾犀利」，認為若平機會的法律文件有此錯誤「都幾離譜」。

平機會發言人回覆指，廣告所載的語句並非來自平機會出版的公眾刊物，有可能是平機會與該書院在去年六月至今年五月進行一宗殘疾歧視法律訴訟時使用的文書。當中的語句大部分是法律專用及常用語，與一般常用英語有不同用法，平機會所用的文字及表達的意思亦被法庭接納。

平機會委員周永新指，本港的英語水平普遍下降，文件有文法錯誤「唔出奇」，其他公共機構如郵政局的英文文件同樣有錯，平機會並非個別情況。另一委員勞永樂稱，法律文件的語言可能與一般文件有別，他會研究廣告內容跟進情況。

English Society of Maria College

英文改錯比賽



平機會法律文件錯漏百出

指出以下弊端，每項獎金\$500-

(原文錯誤重覆多次，絕非'careless mistake')

should have known

If the Defendant had such belief, it ~~must also know~~ that the Plaintiff was suffering from a sickness....

As soon as 24 August 2002, the Defendant hired a replacement teacher to replace the Plaintiff.

These are the relevant facts: (b) That the Defendant knew the Plaintiff was in hospital and that he had underwent a major surgery;

In the circumstances, it is submitted that the conditions as to attendance at work has a discriminatory effect on persons who has the Plaintiff's disability.

As a matter of fact, the Plaintiff suffered a detriment because he cannot comply with the condition..

It is common sense that people who are seriously ill cannot attend work.

And the Plaintiff claims: 1. 2. An Order that the Defendant do apologise as pleaded....

Please take notice that, should your client fails to pay the damages and interest.... from the date hereof; we shall commence....

Once the Defendant were informed about the sickness of the Plaintiff through the Administration Officer on 9 August 2002, they....

It was not just a "routine" work.

Mr. X agreed he would convey Y's request to his supervisors.

It is also Plaintiff's evidence that he had requested to return to work from 1 November 2002 and he would be physically....

I refer to your letter of 4th May 2005 of which we have taken instructions from our client.

Reliance on contract by the Defendant is not a defence to claim of unlawful discrimination.

Ms. X confirmed that she has obtained a copy of the Code when she attended the office of the Equal Opport. Comm. before.

The truth is that, the Defendant was not waiting for the Plaintiff to come back.

Ms. X said that no other teacher has taken leave for period as long as the Plaintiff has taken, in such circumstances; the court may choose a hypothetical comparator.

The instant case is clearly one of direct discrimination on the ground of disability.

The Plaintiff should be able to earn a monthly income at HK\$xxx for this period had the Defendant not discriminated against him.

The Defendant said that, "We have no equal opportunities policy in place for the time being."

The Defendant said that Mr. Z was under probation of three months.

The correct question to ask is: "Whether the Defendant would be dismissed but for his disability?"

The Plaintiff's doctor certified that he was under convalescence recovering from surgical illness and might return to his original job post after full recovery.

Ms. X said she had never personally enquired the nature of the Plaintiff's illness or when he would be able to return.

The Defendant would not dismiss employees who are required to take leave for pregnancy, giving evidence in court or perform juror duty.

If the Plaintiff was able to resume duty within these three-month period,

It is incumbent upon the Defendant, if relying on this defence, to show what the inherent requirements of the job of geography school teacher are....

If the Court satisfies that the Defendant decided to dismiss the Plaintiff....

However, if the Court does not agree, and find that the Plaintiff was....

Virtually he had not received any salary during his sickness leave period, i.e. from 13 August 2002 to 21 October 2002.

The fact that the Plaintiff was not dismissed earlier was because the Defendant believed that he was protected under the Employment Ordinance.

Ms. X said in her evidence that the whole recruitment process for teacher lasts for only 2-3 days, in that case, the Defendant could....

The fact that the Defendant can easily find a supply teacher within 2-3 days, and that Mr. Z was taking over the Plaintiff's work, and the Defendant had never thought of other alternatives before dismissing Mr. P shows that the so-called hardship of "students without teacher for classes" did not exist at all.

It is inconceivable that if what the Defendant said is true, that the Plaintiff had not informed it of the illness he had or when he would be able to return work, Ms. X would have failed to take any steps to make an enquiry herself or made a written request to the Plaintiff and required him to provide the information.

Types of Mistakes: Tenses, articles, punctuation, disagreements, ambiguity, redundancy, detached phrases and clauses, faulty parallelism, self-invented English, wordiness, etc.

Entry Requirements: Open to the public. No limit to the number of one's entries.

Adjudication Criteria: The entry with the best and the most exhaustive ideas supported by authoritative sources will be the Winner. Answers of equal weight will share the prize equally. The decision of the English Society will be final.

Deadline for Entries: The accepted post mark will be 16 July 2005 or earlier dates.

Announcements of Winners: Early August 2005 in the same newspapers.

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