

# Thematic Seminars on Legal Matters for School Managers

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# Education Ordinance (Cap. 279)

## Section: 40BI **Rights and liability of manager and protection**

(1) A manager shall not by virtue of his office as the manager be beneficially interested in any property of the incorporated management committee.

(2) A manager shall not incur any civil liability in respect of anything done or omitted to be done by him in good faith in the performance or purported performance of any function of his office as the manager.

(3) No civil proceedings shall be brought against a manager of a school for anything done or omitted to be done by or on behalf of the incorporated management committee of the school unless he has not acted in good faith in relation to the thing or omission.

(4) The protection conferred under subsection (2) does not in any way affect the liability, if any, of the incorporated management committee for the act or omission of the manager in the performance or purported performance of the relevant function.

# Anti-discrimination ordinances in Hong Kong

- ▶ 《性別歧視條例》 1996  
Sex Discrimination Ordinance (SDO)
- ▶ 《殘疾歧視條例》 1996  
Disability Discrimination Ordinance (DDO)
- ▶ 《家庭崗位歧視條例》 1997  
Family Status Discrimination Ordinance (FSDO)
- ▶ 《種族歧視條例》 2009  
Race Discrimination Ordinance (RDO)

# Anti-discrimination ordinances in Hong Kong

- 性別 Sex
- 懷孕 Pregnancy
- 婚姻狀況 Marital Status
- 家庭崗位 Family Status
- 殘疾 Disability
- 種族 Race



# Management liability

- 個人責任 Personal liability
- 從犯責任 Accessory liability
  - 施壓或指示
  - 明知而協助

# Vicarious Liabilities 轉承責任

- 主事人責任 (Principal – Authorized agent)
  - 授權代理人的違法行為
  - 授權：明示或默示、事前或事後
- 僱主責任 (Employer – Employee)
  - 僱員在受僱用中的違法行為
  - 不論知情或贊同與否

# Apology Ordinance

## Section 4: Meaning of apology

(1) In this Ordinance, an apology made by a person in connection with a matter means an expression of the person's regret, sympathy or benevolence in connection with the matter, and includes, for example, an expression that the person is sorry about the matter.

(2) The expression may be oral, written or by conduct.

(3) The apology also includes any part of the expression that is—

- ▶ (a) an express or implied admission of the person's fault or liability in connection with the matter; or
- ▶ (b) a statement of fact in connection with the matter.

(4) In this Ordinance, a reference to an apology made by a person includes an apology made on behalf of the person.

(5) Section 5 specifies the apologies to which this Ordinance applies.



# Apology Ordinance

Section 5: Apology to which this Ordinance applies

(1) This Ordinance applies to an apology made by a person on or after the commencement date of this Ordinance in connection with a matter, regardless of whether—

- (a) the matter arose before, on or after that date; or
- (b) applicable proceedings concerning the matter began before, on or after that date.

(2) However, this Ordinance does not apply to—

- (a) an apology made by a person in a document filed or submitted in applicable proceedings;
- (b) an apology made by a person in a testimony, submission, or similar oral statement, given at a hearing of applicable proceedings; or
- (c) an apology adduced as evidence in applicable proceedings by, or with the consent of, the person who made it.

# Apology Ordinance

Section 6: Meaning of applicable proceedings

(1) In this Ordinance, the following proceedings are applicable proceedings—

- (a) judicial, arbitral, administrative, disciplinary and regulatory proceedings (whether or not conducted under an enactment);
- (b) other proceedings conducted under an enactment.

(2) However, applicable proceedings do not include—

- (a) criminal proceedings; or
- (b) proceedings specified in the Schedule.