

# Unreasonable Complainant

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Legal matters – Mediation Ordinance (Cap 620)  
& Apology Ordinance (Cap 631)

Unreasonable Complaint or Complainants?

Case Sharing from Mediation/Communication

# Risk Management

- Prevent from Outbreak
- Avoid from Explosion/Further Discovery
- Minimize from Loss/Impact

## Background to Apology Ordinance Cap 631

- Sorry Law -> doesn't mean admission of wrongs
- 1999 Alder Hey Hospital incidents in Liverpool UK, (all but 12 of the 1154 parents accepted) settled by mediation in 2003 (Apology, Compensation, Press Conference, Plaque)
- c.f. 2012 Lamma Ferry Disaster, Apology by Govt. officials only after 8 months
- Full apology/partial apology

# Apology Ordinance Cap 631

- Passed LEGCO 13/7/2017, effective 1/12/2017
- S2 the object is to promote and encourage the making of apologies with a view to preventing the escalation of disputes and facilitating their amicable resolution
- Applicable to Civil claims (c.f. civil/criminal)
- Meaning of Apology S4(1) ...is sorry about the matter (partial)
  - S4(3) (a) ...express or implied admission (full)
  - S4(3) (b) ... a statement of fact in connection with the matter (full)
- S5 apology made...on or after the commencement date... (i.e. 1/12/2017)
- S6 Does not include Criminal Proceedings (investigation?)
- S7 7(1)(a) ...DOES NOT constitute or implied admission of the person's fault or liability
- S10 Contract of INSURANCE or indemnity not affected
- S13 Applies to GOVERNMENT

# Unreasonable Complaint/Complainants

*(Guidelines for Handling School Complaints, EDB Chapter VI, Sep 2016)*

- Unreasonable attitude or behavior (Handling Feelings)
- Unreasonable demands (Cause and Effects & Setting Limits)
- Unreasonable persistent complaints (Setting Limits and Preparing for an Ending)

The Content of the Complaint is always more important

## Complaints that May not be handled

### 4 不理 (Alice Tai)

- 匿名      非當事人      事發逾年      資料不全

### Legal

- Trivial, Frivolous, Vexatious, Made in Bad Faith

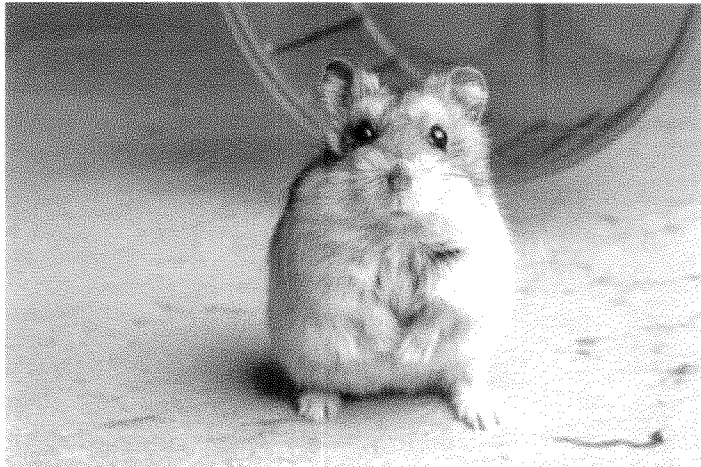
Complaint Shopping? i.e. DB members....

# Handling

- Formulating School policy on complaints especially vexatious, frivolous or trivial complaints
- A Vexatious complaint is entirely without merit and is made with the intention of causing inconvenience, harassment or expense
- A Frivolous complaint is a complaint that has no serious purpose or value
- A Trivial complaint is one where to investigate it would be out of all proportion to the seriousness of the issues complained about.
- 3 Is : Identification, Investigation, Inform (limits, restrictions, appeal or review will be Final)
- Role of EDB, other agencies in dealing with internal or external matters

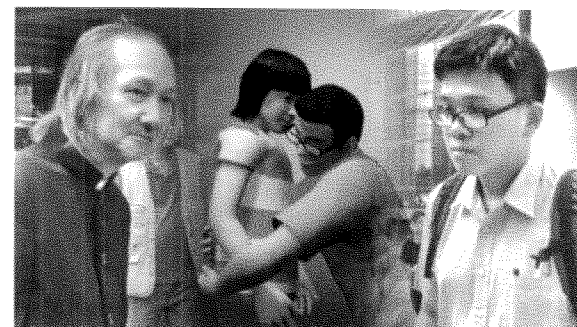


# Who moved my Tart?



- 某學校舉辦一項有關教育改革研討會，除該校部份教師出席，校方亦邀請其他學校的校長、教師及教務人員出席。研討會舉行期間，某女教師及姓楊男教師曾因意見相左，針鋒相對至十時許，研討會暫停小休，部份教師離開圖書館休息，其間一名剛於日前結婚的女教師拿出西餅派給在場教師分享，教師們盛情難卻禮貌地接過西餅，但當時大部份教師並未即時進食西餅。可是姓楊男教師卻質疑為人師表不應在圖書館內進食，否則有違規則，當面向校長提出質詢。
- 據一名在場教師稱，當時該女教師正進食西餅，她懷疑姓楊教師向校長打小報告表示不滿，雙方疑因此發生爭執，其間有人向姓該女教師辱罵「賤貨講賤野！」
- 該女教師被罵後十分激動，雙眼通紅呆站一旁，但男教師仍出言侮辱，遂女教師怒極涉嫌拿蛋糕擲向男教師面部洩憤，在場其他教師立刻分隔兩人勸解。事發後，該男教師聲稱要求對方道歉不果，決定自行報警討回公道。警員接報到場了解事件後，拘捕該女教師。

## 梁志宏 v 梁銳成



- 中學男教師，因被指「與學生關係不恰當」而被學校辭退後，轉到新學校任教。舊校一名女學生父親得悉後展開「追擊」，先向新校校長發信，投訴該男教師性侵犯其女兒和舊校的女學生，之後再在新學年開課後到新校門外派傳單「唱衰」該男教師。該教師遂控告對方誹謗，要求法庭禁制對方繼續誹謗他及索償逾十萬元，案件在區院開審。結果家長要賠償18萬，包括律師費。

DCCJ 3435/2012

- 2018年1月，家長就傳單上的「XXX」字眼是否構成惡意，以導致8萬元的懲罰性賠償。獲批上訴許可。

# My Experience

- 稱謂：在教員室只用 “阿Sir” 及 ”Miss”，沒有姓氏；(指控一)
- 自言自語句：“有事就應該自動自覺去做，仲要人叫？人地幫你都無多謝一聲！”（在教員室）；(指控二)
- 挑釁性：“學校有事，訓導組責無旁貸，我都係為學校做野，我唔係攞事、如果你地有唔滿意就去投訴我，再唔係就報警囉。（聲量中等至大聲，當時走廊並沒有學生）”(指控三)
- 不禮貌對待：即上述1. 至3項說話。(指控四)
- 在公共場合使用上述1.-3. 項(指控五)

# Tips - Communication

- Calm Yourself
- Confidence (your roles and limits)
- Central Issues (Content) of the complaint
- Clarification (Scope and Procedure)
- Consistency (Process and Outcome)
- Condition Setting
- Control Access (what, when, when, where and how)
- Consultation (Seek help, support, debriefing and legal advice)
- Cessation
- Clear Documentation and Reporting

(by Y.L. Chen, Specialist in Psychiatrist)