

Executive Summary

Direct Investigation into Education Bureau's Non-disclosure of Teachers' Registration Status

Background

The Education Bureau (“EDB”) currently rejects all requests from the public for access to the list of registered teachers (“the List”) on grounds of protecting the teachers’ privacy. However, this Office notes from media reports that certain parents’ associations and some teachers’ organisations have commented that EDB should open up the List for public inspection. The Ombudsman, therefore, conducted a direct investigation into EDB’s handling of public requests for information on teachers’ registration status, with a view to identifying room for improvement.

Our Findings

2. The findings of the investigation are as follows.

Teacher Registration System

3. Under the Education Ordinance (“EO”), any person who intends to teach in a school must first apply to EDB for teacher registration. Accordingly, EDB holds the List.

EDB's Reasons for Refusal to Release Information on Teachers' Registration Status

4. EDB gives the following reasons for its refusal to disclose the List or information on individual teachers’ registration status:
 - (1) According to Principle 3 of the Data Protection Principles under the Personal Data (Privacy) Ordinance (“PDPO”), personal data shall only be used for the purpose stated at the time of data collection, unless the consent of the data subject has been given. EDB considers that disclosure of teachers’ registration status is not in line with the original purposes for which such information was collected.
 - (2) The EO does not empower EDB to disclose information on teachers’ registration status.
 - (3) There is already a system under which EDB and schools can adequately guard against the employment or continued employment of people who are not fit or proper as teachers in schools.

- (4) Disclosure of information on teachers' registration status may lead to the following problems: lawsuits; indirect disclosure of teachers' employment status; and public misunderstanding that some school employees (such as non-teaching staff who are anyway not required to register with EDB) are "unlicensed teachers".

Our Comments

EDB should explore how to make teachers' professional status open and transparent

5. In refusing to disclose the List for public inspection, EDB is acting in accordance with the law.

6. Nevertheless, the aim of the teacher registration system is to ensure that schools employ only teachers who have acquired the necessary professional status to provide proper education with quality assurance to students. Whether teachers are registered is indeed of interests to all schools, students and parents. Therefore, we consider that based on the broad principle of open and transparent public administration, EDB should respect the public's right to access such information and strive to open up the List.

7. Moreover, EDB's current system cannot completely prevent people who are not fit and proper from being employed as school teachers. One cannot rule out the failure of some schools to follow EDB's requirements or advice. For example:

- when there is a shortage of teachers, some schools may employ people they know but who are not registered with EDB, as temporary teachers for the sake of convenience;
- some schools may choose not to report to EDB cases of crime or misconduct involving their teachers to avoid bringing the schools into disrepute, in which case EDB would have no basis to consider de-registering the teachers in question.

The best way, therefore, is to open up the List so that the public can help monitor teachers and report suspicious cases to further safeguard public interest.

8. As regards the concerns raised by EDB and opposition of some people to disclosure of the List (e.g. that: teachers have not given consent for EDB to disclose their personal data; the public may further request disclosure of teachers' other information; and disclosure of the List may cause public misunderstanding that some school employees are "unlicensed teachers"), we believe that those problems are not insurmountable. Besides, such concerns are no good reason for denying the public of their right to information.

9. Moreover, while EDB understands the reservations of some members of the profession about disclosure of the List, it has neglected the views of the public at large, particularly those of parents. In fact, some have already pointed out that currently many other professions in Hong Kong (including medical practitioners, lawyers and social workers) do make their lists of registered members open for public inspection. Hence, keeping the identity of registered teachers secret is unwarranted. EDB, therefore, should conduct an extensive public consultation exercise or opinion poll to confirm the public's aspirations; then consider what to do next as to how to open up the List.

EDB should adopt a more accommodating approach in considering information requests made by those whose vital interests are affected

10. According to the relevant provisions of Principle 3 of the Data Protection Principles under the PDPO and the view offered by the Office of the Privacy Commissioner for Personal Data indicated, EDB's disclosure of only the registration status of a teacher to individual persons may not amount to a breach of the PDPO, so long as the purpose of such disclosure is directly related to the purposes for which the information was to be used at the time the information was collected.

11. The registration status of a teacher certainly concerns vital interests of the students' parents and the school which intends to employ the teacher. Requests made by those parents/school authorities to access the information on teachers' registration status are reasonable. Disclosure of such information by EDB to them could be deemed as directly related to the original purposes of collecting such data (which include teacher registration system and provision of education services). Therefore, it may not amount to a breach of the PDPO if EDB is to disclose information on the teachers' registration status under these circumstances.

12. In the light of the above, we consider it imperative for EDB to review its current practice relating to handling requests from individuals and schools to access information on the registration status of individual teachers. If requests of the individuals / organisations are related to their vital interests, EDB should adopt a more accommodating approach in considering such requests.

Recommendations

13. The Ombudsman urges EDB to:

- (1) review its current practice relating to handling of requests from individuals / organisations to access information on the registration status of individual teachers, with a view to adopting a more accommodating approach in considering requests made by those whose vital interests are affected; and

- (2) conduct an extensive public consultation exercise or opinion poll to confirm the public's aspirations for disclosure of the List; if the results indicate wide public demand for disclosure, EDB should expeditiously consider amending the relevant procedures and legislation to implement the measure.

**Office of The Ombudsman
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