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Workplace Relationships: Keep Office Romances In The Lunch Room (Not The Court Room)

By Alan Riddell, Steve Shaddock and Darrell Mast

Office romances: They can be harmless but they can also disrupt the workplace with innuendo, gossip and resentment. They're messy when they go wrong and can kill morale, damage reputations, ruin careers, affect business and even carry potential legal consequences.

You can't reasonably ban or prohibit workplace romances. They are not grounds for disciplinary action. But employers can protect themselves from damaging consequences by setting and enforcing clear policies on how workplace relationships will be handled, what will be tolerated and when they should be reported to the employer. Having good policies in place may prevent inappropriate liaisons from happening in the first place or give employers some legal protection when they do surface.

The most problematic relationships for employers and employees alike are romances that develop between supervisors and subordinates. An affair between a manager and a subordinate is built on a power imbalance and a conflict of interest that is fraught with problems. For instance, any special assignments, promotions, or raises the subordinate receives may lead to allegations of favouritism. This conflict of interest can be resolved by a change in the reporting relationship or by relocating one of the partners so they are no longer working together. A manager should never supervise a romantic partner!

Far more worrisome, however, are cases where a subordinate feels pressured or forced into a sexual relationship with a direct supervisor for fear that rejecting unwanted advances could have adverse on-the-job consequences. Whether the pressure is real or perceived, this is called sexual harassment and no workplace should be without clear policies that explain what behaviour is expected of managers and employees and how to report violations.

Recent Court decisions drive home the importance of having clear and consistently enforced policies. Take the example of a manager at an automotive manufacturing company who sued for wrongful dismissal after he was fired for having extra-marital affairs with two of his subordinates - both married to men working at the same company. He was demoted and transferred when the first affair was discovered and then, despite warnings that such relationships could be grounds for dismissal, he took up with another worker who reported to him. The manager argued that both relationships were consensual and private but the Court ruled that consent did not offset the power imbalance between supervisors and their subordinates. More importantly, the Court found the company had cause to fire him because it had consistently enforced its policy and warned him that such indiscretions were inappropriate and grounds for firing.

In another case, a female employee sued for damages for the psychological harassment and unwanted sexual banter she endured from her boss. The employer argued that if she felt harassed, she should have reported it and her failure to do so was a breach of contract. The Court disagreed. The company's policy manual encouraged workers to report harassment but didn't make it obligatory for them to do so. The company lost, and was ordered to pay her damages.

Romantic relationships are bound to develop when people spend most of their waking hours at work. When such a relationship arises, employers may have to choose between losing a valued employee and turning a blind eye to the relationship. That may not be a viable option because courts have repeatedly ruled that the failure to enforce a workplace policy, by turning a blind eye to it, ultimately makes that policy unenforceable. By ignoring the relationship, you may therefore be setting a precedent for future relationships between other employees.

When a new relationship comes to light, an employer could meet with the employees to discuss potential impacts on colleagues and ensure that they understand that their relationship must not affect the workplace or their performance on the job. This is also an opportunity for the employer

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to determine the nature of the relationship and to ensure that both employees are comfortable.

Depending on the circumstances, employers may want to consult with a lawyer before meeting with the employees to ensure these tricky situations are handled in the most appropriate manner.

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