

Love in the office - heartbreak for HR

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A stolen kiss in the stationery cupboard is one thing, but when love blooms in the office it can turn into heartbreak for HR managers, explains Adrian Martin, Partner at Burges Salmon LLP.

If members of staff develop a personal relationship, there is a risk of conflict of interest and potential for discrimination and unfair dismissal claims, particularly if the relationship turns sour.

Cases brought to employment tribunal have demonstrated the need for fair, clear policies on personal relationships and for dealing with grievances.

In the recent case of *Nixon v Ross Coates Solicitors*, a woman in a relationship with one of the firm's solicitors had an indiscretion at the Christmas party with the IT manager. After a holiday and a period of sick leave she returned to the office at the end of January.

During her absence the HR Manager had gossiped with colleagues, telling them that Ms Nixon was pregnant and speculated about the baby's paternity. On her return, Ms Nixon met with management and requested to move to another office, as she was not prepared to work with the HR Manager. Her request was refused. Management insisted she return to work immediately and when she did not, her February pay was withheld. In March Ms Nixon resigned and brought a case of sex and pregnancy discrimination and harassment and constructive dismissal.

Oscar Wilde's Dorian Gray may have felt that "there is only one thing in the world worse than being talked about, and that is not being talked about" but this is not necessarily true of the modern workplace. Engaging in any gossip can create an uncomfortable environment for others, made worse in this case as the issue at hand was the pregnancy of a colleague.

Pregnancy is a specifically protected characteristic under equality legislation in the same way as sex, age and race. Making decisions about the employee's role and career as a result of pregnancy, therefore, can constitute unlawful discrimination. Harassment relating to pregnancy will also be unlawful.

Relationships between colleagues can also cause difficulties in the workplace, particularly where a manager is in a relationship with a member of their team. This can lead to issues of conflict of interest, difficult team dynamics and possibly sex discrimination claims where action is taken.

Situations can be particularly difficult where, for example, a male manager engages in a relationship with a more junior, female, member of staff. Even if the relationship is common knowledge, feelings can arise that

the manager is not supporting business decisions being made about his partner. What's more, the wider team can also be concerned that the manager shows preferential treatment towards his partner, which can have an impact on the dynamic of the team.

In this situation, HR managers considering transferring staff should examine their contract to see whether this is allowed. If not, the move will require the employee's agreement.

Taking action to move the junior employee can raise issues of sex discrimination, as statistically men are more likely to hold senior roles in business than women and it is strategically easier to move more junior members of staff to other locations, teams or onto other projects. However, even if a move is due to this strategic concern, it could still lead to a case of indirect discrimination, which would need to be justified.

In the case of *Faulkner v Hampshire Constabulary*, the employer was able to justify a policy that prevented police officers in a personal relationship from working together as manager and subordinate in order to ensure actual and apparent propriety in working relationships.

Aside from the sheer awkwardness in the office, if the relationship ends, HR managers should also take care that it does not result in a case of sexual harassment. Making the company policy on this matter clear to all employees from day one will help protect you from accusations of inaction in dealing with the alleged harassment if it ever comes into question.

In a nutshell, the most sensible way to deal with office romances is to have a clear policy in place before any cases arise. Consider requesting that staff disclose any personal relationships with one another to the HR or senior management team (or at least where there is potential for conflict of interest).

Consider whether the relationship may give rise to a conflict of interest and take steps to avoid its occurrence by managing its impact on the team, which may include changing line management or appraisal structures and assigning the parties to distinct projects where possible. It may also be wise to disclose the relationship to the wider team and make clear that staff are welcome to address any concerns with the HR or senior management team.

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