



Matt Gingell™

Making sense of employment law

Office romances: A guide for employers

Intimate relationships often exist in the workplace, which is not really surprising when people spend a long time together. In what circumstances though can employers put a stop to the romance?

THE RIGHT TO RESPECT FOR PRIVATE LIFE

It's difficult for employers to object to workplace relationships. Romantic ties are personal and any objections would likely to be inconsistent with the right to respect for private and family life.

The European Convention on Human Rights, which is incorporated into UK law, states that everyone has the right to respect for their private and family life subject to a few limited exceptions. Although only public bodies must expressly comply with this right, it's relevant to all employers (including the private sector) as courts must interpret, as far as possible, all legislation consistently with the right.

POOR PERFORMANCE

Should the relationship affect the work performance of either employee, including if the relationship turns sour, the employer could invoke their poor performance procedures. However, it would be hard to dismiss the employee unless in spite of an improvement plan being put in place and warnings being issued, an acceptable level of performance had not been reached.

Generally, employees who have two years' continuous service have the right not to be unfairly dismissed. Employees could argue that their employer did not have a fair reason to dismiss, or that a fair process had not been followed.

LINE MANAGER LIAISONS

In the case of relationships between line managers and those staff that report to them, favouritism and perceived favouritism can be a tricky issue. It may be appropriate for employers to have policies requiring such a relationship to be disclosed, and that breaching such policies could result in disciplinary action. However, imposing a general requirement on employees to disclose all personal relationships would again be likely to interfere with the right to respect for private and family life.

CONFIDENTIALITY

Confidential information being passed on by staff could also be a problem for employers. If an employee tells their partner about a confidential discussion with another employee this could breach confidentiality obligations. Disciplinary action might be appropriate.

In another scenario where, for instance, two employees are having an intimate relationship and one leaves the organisation to work for a competitor, there could be a real risk that the remaining employee could disclose confidential information to their partner. If this information were then passed on to the competitor, this could have serious consequences. It would be hard though for the employer to take action disciplinary against the existing employee solely on the basis that there might be a chance of pillow talk.

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