

## **Workplace Relationships, Harassment, and Abuse**

Employment lawyers commonly advise employers who are asking how to eliminate personal relationships between employees. That result is likely one which is unachievable, both legally and practically.

But, at the present time, employers' concerns are definitely more focused on eliminating the existence of harassment and abuse in the workplace. That result is one which should be achievable and which is of much greater urgency and importance.

### **Relationships At Work**

As adults, many of us spend the majority of our waking hours at work – as a result, the workplace is our primary venue for social interaction. Surveys have indicated that over one-half of employees have been romantically involved with a co-worker and almost one-fifth of employees met a spouse at work.

An employer seeking to totally prevent personal relationships between employees may only succeed in forcing them to be carried on in secrecy. And, at least generally, there is neither a law nor any sort of moral authority directly giving employers the right to restrict employees' personal relationships.

An employer embarking on a broad campaign to stamp out workplace relationships may find itself the subject of a variety of complaints and actions. These could take the form of a human rights complaint or civil claims of constructive dismissal.

### **Harassment and Abuse at Work**

There are circumstances, however, when an employer can lawfully impose restrictions on office romances. It would, for instance, be perfectly acceptable for an employer to take disciplinary action when the activities of couples stray over into misconduct. This may be especially noticeable in the event of a breakdown in the relationship, when residual hostilities tend to manifest themselves in ways which are destructive to workplace harmony.

The most important context in which employers may – and should - regulate office relationships is between supervisors and subordinates. It is well established that the employer has a legitimate interest in knowing about, and taking reasonable steps to control or prevent, these situations.

The key problem arising from the supervisor-subordinate romance is the existence of a power imbalance between the two. The prospect that the supervisor will abuse his or her authority in the course of the relationship should be of great concern to employers.

For example, a supervisor who is in the position of assessing the partner's performance, affecting his or her salary, or making decisions about promotions is a supervisor who is not able to act objectively. And there is always the real prospect that this position of power will be used in a negative way.

Acting preventively, the employer can (and should) establish a policy, guidelines, and training on appropriate workplace relationships and conduct. This can be a core component of the employer's ongoing management training regimen and might comprise three primary elements.

## **Policies on Workplace Relationships**

First, the boundaries of appropriate workplace conduct should be defined in a policy. It can be useful for the policy provide examples of appropriate and inappropriate forms of conduct.

Supervisors should be made to understand that they (more than the subordinate) are responsible for ensuring their conduct does not cross into inappropriate territory. They should be educated on how such inappropriate conduct can, and likely will, form the basis for a complaint of harassment.

Second, ongoing attention can be given to the policy by way of periodic training sessions simulating real-life situations. This will provide supervisors and subordinates alike with situational experience of what is, and is not, appropriate workplace behaviour.

The objective is to establish a broad awareness of the boundaries of acceptable conduct. Empowering employees to recognize the early signs of such a situation will equip them to take evasive measures.

Third, supervisors and subordinates must be made to understand that the most important step is early reporting of potentially inappropriate relationships. Disclosure allows the employer to assess the situation before any damage has occurred and to implement measures to resolve concerns.

As with many aspects of the employment relationship, establishing conduct guidelines and taking early steps to deal with inappropriate relationships is the best approach.

## **Spotting Surreptitious Harassment and Abuse**

Having policies and training and disclosure requirements is all fine and good, but chances are that the most concerning, and odious, behaviour in the workplace – harassment and abuse – is going on surreptitiously. Spotting signs of that behaviour, and taking early action to eliminate the conditions which contribute to it, is critical.

In a recent article, “Is Sexual Harassment Happening In Your Organization?”, Krista McIntosh really hit the nail on the head when it comes to identifying the signs that a workplace is ripe for the occurrence of harassment and abuse. Krista is a principal and senior H.R. consultant with ACTivate HR in Calgary, and I highly recommend her insightful article, at <https://activatehr.ca/metoo/#more-2175>.

Krista specializes in conducting workplace investigations and I guarantee you that, upon reading her article, you’ll have food for thought about your organization and others you’ve worked for in the past. You’ll see that she identifies the kinds of circumstances and conditions which provide fertile ground for harassment and abuse. Answer her 12 questions – I bet you’ll be surprised by how many “yes” answers her questions provoke.

The next step, of course, is to ask yourself what you can do within your organization to eliminate that fertile ground exploited by harassers and abusers. As I said at the outset, elimination of harassment and abuse at work should be achievable and is of great urgency and importance.

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