

Are the days of the office romance numbered?

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Employment Law News

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Are the days of the office romance numbered?

A [recent survey](#) by Totaljobs of almost 6,000 UK workers revealed that 66% of them had either dated, or considered dating, a colleague and 22% went on to meet their partners or spouses through work. Yet earlier this month, the CEO of McDonald's, Steve Easterbrook, was dismissed after it came to

light that he had a consensual romantic relationship with a colleague. In this briefing we explain what went wrong for Mr Easterbrook and how employers might choose to approach the sensitive subject of romance at work.

What happened at McDonald's?

McDonald's had a 'Business Conduct Standards Policy' which provided that: *"In order to avoid situations in which workplace conduct could negatively impact the work environment, employees who have a direct or indirect reporting relationship to each other are prohibited from dating or having a sexual relationship"*. The Policy went on to say that: *"It is not appropriate to show favouritism or make business decisions based on emotions or friendships rather than on the best interests of the company"*. The Policy also required an employee who had entered into such a relationship, or who was contemplating doing so, to notify HR immediately.

The Board of McDonald's reviewed the matter and concluded that Mr Easterbrook had violated company policy and demonstrated poor judgement. In his departure email to colleagues, Mr Easterbrook held his hands up and said: *"Given the values of the company, I agree with the Board that it is time for me to move on"*.

Interestingly, the day after Mr Easterbrook's departure, McDonald's Chief People Officer, David Fairhurst, also left the business. Although McDonald's has declined to comment on the reasons for Mr Fairhurst's departure, it has been [suggested by Mr Fairhurst's family](#) that he was sacked because he knew about Mr Easterbrook's romantic relationship and failed to do anything about it.

What are the risks arising out of personal relationships at work?

The Easterbrook affair took place in America. Would it have been any different in the UK? Of course, we have legislation

prohibiting sexual harassment at work (where one party's advances are unwanted by the other party). A breach of those rules could well result in the instant dismissal of the perpetrator. However, there are no specific employment laws prohibiting consensual relationships at work.

Nevertheless, romantic relationships at work can present difficulties for employers, notably the risk of a conflict of interest if one party has managerial responsibility for the other. The more senior party could easily end up in a situation where his or her loyalties are divided between the company's best interests and those of their partner, for example, when conducting an appraisal or pay review. In this situation the manager is certainly under an obligation to disclose the potential conflict.

Such a situation could also prompt complaints of bias and favouritism and lead to decreased morale amongst other workers. It is also quite likely to generate office gossip and could lead to other unpleasant behaviours such as cold-shouldering of one or both members of the couple.

There is also the risk of negative fallout if the relationship breaks down. For example, if one party tries to pressurise the other into getting back together this could give rise to a sexual harassment claim.

How can an employer mitigate such risks?

An outright ban on personal relationships at work is probably unrealistic given the statistics cited at the beginning of this article. Such a draconian step may also be unlawful since it is likely to represent an unjustifiable interference with an employee's right to a private and family life.

A better approach would be to attempt to regulate the conduct of personal relationships at work by putting in place a "Personal Relationships at Work" Policy. Such a policy should set out the expected standards of behaviour and, if breached,

can be used as a basis for disciplinary action.

What should such a policy cover?

- It should define what is meant by a “personal relationship” and clarify that this covers both formal relationships, such as spouses, civil partners or cohabitees, but also less formal relationships, such as boyfriends/girlfriends and more casual relationships. It could even cover platonic personal relationships.
- It should explain why the policy is necessary by highlighting risks including but not limited to: potential conflicts of interest; the risk of bias in managerial decisions; the risk of discrimination or harassment; the potential adverse effect on other staff members; and the potential negative impact of a relationship breakdown.
- It should set out guidelines for managers on how to deal with a personal relationship arising between team members. Managers should be required to notify HR of any issues connected to personal relationships between their team members. They should also be reminded that no detrimental action should be taken against the couple just because they are in a relationship – this could be unfair and/or discriminatory. They also need to treat both members of the couple equally, as a failure to do so could also be discriminatory. However, managers should be required to assess whether the relationship is negatively affecting productivity and, if it is, take appropriate action.
- It should set out the behavioural standards expected from those entering into a personal relationship at work. For example, this should require the parties to conduct themselves in a professional manner in the workplace and ensure that rules on confidential information are not breached in the context of a personal relationship.

- Crucially, the policy should include a McDonald's-style clause requiring a party who enters into a personal relationship with either their subordinate or manager (or any other member of staff where there is a potential conflict of interest) to disclose the fact to HR as soon as possible. The policy should also address how the company may respond to such a disclosure (e.g. moving one of the parties to a different role or putting in place other safeguards).

BDBF can help you prepare a Personal Relationships at Work Policy. If you would like to discuss how we can help, please contact [Amanda Steadman](#) or your usual BDBF contact.

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