

Office Romance - A Lesson in managing personal relationships at work

By Kellie Hennessy

Romance happens in the strangest of places. As stated in the iconic lines Max Erhmann's *'Desiderata'*, "*Neither be cynical about love; for in the face of all aridity and disenchantment, it is as perennial as the grass.*" Sometimes however, that *'perennial grass'* flourishes in the most inconvenient of places: namely, the office.

Requirements which expect employees to openly declare to the office that they are involved in a relationship seem to be a violation of privacy. The personal sphere of our lives should be respected and placing an absolute bar on office romance will not stand constitutional muster. Conversely, employers are placed in an awkward position when personal relationships, if not declared, may result in personal interests conflicting with the interest of the employer.

What is the position when a senior director and a junior employee are involved in a personal relationship where performance bonuses are determined by that senior director? Failing to declare the conflict is not in the best interest of the company and would directly result in an undue benefit paid erroneously to an employee, who may not have been entitled to it otherwise. Furthermore, in instances where large organisations compete for common resources internally, or similarly, where there is a dependency cross-department wherein one department is a resource provider to another department such conflicts could impact on the organisation's efficiency negatively. A relevant example could be in the banking sector where *'change-the-bank'* teams and *'run-the-bank'* teams will compete for common IT resource allocation or alternatively where such IT resources are complementary to another department. The conflict may arise where individuals who are heads of these departments could not act in the best interests of their respective departments due to a personal relationship cross-team or in the company.

Employers and Human Resources could take note of jurisdictions such as the United States which require employees who are romantically involved to sign a document colloquially known as *'cupid contracts'*. The concept sounds rather draconian and may raise a few eye brows in a constitutional democracy with enshrined rights to freedom of association, human dignity equality and freedom. However, the purport behind governing amorous affections is rather ingenious as it aims to place a safety-net for employers to create an obligation on cupid struck employees to declare their personal relationship and undertake that they understand the duty to declare conflicts of interest, which may arise, failing which they may face disciplinary action. Furthermore, cupid contracts have assisted employers to protect itself against claims for sexual harassment. This is prolific as the employer has been held in South African law to be vicariously liable if they fail to take action in respect of complaints against an alleged harasser. The cupid contracts often contain a declaration that the relationship has been entered into voluntarily and is consensual and welcomed by the employee. Furthermore, it contains reference to the company policy on conflicts of interest and/or sexual harassment and a declaration that the employee has read and understood the same. This contract is especially recommended in instances of unequal power relationships wherein senior employees are engaging with a personal relationship with less sophisticated juniors.

The concept of a cupid contract is a sage idea for Human Resources officials and employers in regulating the, often difficult to manage, office romance.

Employers should also not be shy to regulate the employer's policy on office romances in policies and ensuring that employees understand that they are entitled to have personal relationships and that it is private, however, when it implicates and involves work and the work environment, rather be safe and disclose, even if it is to a selected group or person in a senior environment.

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