Love Is In The Air? Investigating Romantic Relationships In The Workplace



At some point in their careers, most investigators will be asked to investigate a matter involving a workplace romantic relationship. I have certainly seen my fair share of these cases over the years. In this blog, I provide an overview of the circumstances that may lead to an investigation into a workplace romantic relationship, and tips on how to conduct such an investigation.

When do employers investigate workplace romantic relationships?

Before anyone panics, it is not every workplace romantic relationship that will result in an investigation. For example, an organization would likely not take issue with two peers being in a romantic relationship, so long as their "personal business" does not interfere with their work or the work environment. I have no doubt that there are many couples who have met in the workplace and have managed to co-exist happily in their jobs.

However, there are other workplace romantic relationships that may be worrisome for an organization. There may be human rights concerns (e.g., sexual harassment), and/or concerns relating to compliance, ethics, or professionalism (e.g., conflict of interest). The following are examples of circumstances that may lead an organization to investigate a romantic relationship:

- The relationship is a breach of an organization's code of conduct. Many organizations have parameters about romantic relationships in the workplace, and steps to be taken if two colleagues find themselves in a romantic relationship (e.g., declaring a conflict of interest).
- An organization may also have general expectations about professionalism in the workplace and certain relationships may infringe these – for example, an organization may have concerns about the judgment of a senior executive who is dating a junior direct report.
- Even if an organization does not have a policy in place prohibiting romantic relationships in the workplace, it may be concerned that such a relationship creates a conflict of interest or the appearance of a conflict of interest. An example of this is when a manager is alleged to be in a romantic relationship with a direct report. The personal interest of the manager (i.e., the romantic relationship) conflicts with their duties as a manager, which involve conducting performance evaluations, setting compensation, determining promotions, allocating work, etc. The concern is that the manager can no longer perform

these tasks objectively.
- Where a power imbalance exists, there may be a concern about whether the romantic relationship is consensual. A power imbalance may exist, for example, when the relationship involves someone senior in the organization, there is a direct reporting relationship between the two individuals, and/or one of the employees is otherwise vulnerable (e.g., precarious job status, lower income, health issues). An investigation in these circumstances would focus on whether the romantic relationship amounts to sexual harassment.

You may ask: How does an organization find out about an alleged romantic relationship in the workplace? In my experience, there are a variety of ways that this can happen. Allegations are sometimes made through whistleblowing channels. Concerned employees may also come forward to complain to Human Resources. Someone in a position of authority may also learn through the "grapevine" about a concerning relationship. I think that the perceived unfairness that a romantic relationship can create can also be the driving force behind the decision of employees to sound the alarm. For example, employees may feel that opportunities (such as a promotion, salary increase, high-profile work) are being unfairly allocated because of a romantic relationship.

No matter how an organization finds out about an alleged romantic relationship, they will want to consider whether what is being alleged warrants an investigation.

Tips for investigating romantic relationships

I have set out here some practical considerations for investigating romantic relationships in the workplace:

- Depending on the circumstances, some of the initial leg work may be done behind the scenes, before notifying the respondent(s) that there is an investigation. This could be the case, for example, if a complaint is made anonymously and little information is disclosed about the romantic relationship. The organization may want to gather some preliminary information before deciding whether to continue with a fuller investigation.
- The organization may need to retain someone external to investigate if the romantic relationship involves someone in the organization who is very senior. Internal investigators may lack the requisite neutrality if there is a significant power imbalance between them and the person they are investigating.
- The investigator should try to interview the person who has disclosed the alleged romantic relationship. The aim of the interview would be to ascertain why the person believes there is a romantic relationship. This will provide the investigator with a potential trail of evidence to follow (e.g., the discloser may have text messages in which the existence of the romantic relationship has been disclosed).
- The denial of a romantic relationship by both parties does not end the investigation. The investigator should consider other sources of evidence. For example, if the parties to the alleged relationship have cell phones provided by the organization, and the organization's policies permit this, the investigator may obtain phone records to determine the frequency of calls between them. A search of emails or other electronic messages may also be relevant (again, provided that the organization's policies allow for such a search). It is not unusual in these cases to find that the parties have exchanged thousands of messages.

Like with any investigation, an organization will want to proceed with caution, sensitivity, and confidentiality. There can be significant professional and personal repercussions for those involved.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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