

Thinking Ahead: Managing Risks from Soured Relationships

管理辦公室戀情的潛在風險

Mohan Datwani

Office romance is a governance issue that affects many businesses worldwide, especially in light of the looming threat of MeToo movement. In the US, it is estimated that 10% of employees find their partners at the workplace[1]. About 10% of sexual harassment claims was stemming from a soured romantic relationship.

There is, however, not much thought of this issue topic in Hong Kong. The Sex Discrimination Ordinance prohibits sexual harassment (or unwanted sexual advances) and a related hostile work environment against all genders and businesses can incur vicarious liability.

In a case, 18 McDonald's franchisees in Arizona were vicariously liable to pay nearly US\$2M to settle harassment claims filed by young employees for unwanted touching, offensive comments, unwelcome sexual advances, and intimidation[2].

Power imbalance

Even without sexual harassment, a power imbalance can lead to reputational risks. In September 2023, Financial Times reported that Barnard Looney, BP's Chief Executive, resigned after he failed to disclose his past romantic relationships with other personnel in the organisation fully.

Apart from this, romantic relationship between a manager and a subordinate gives a perception of favouritism and unfair treatment to other peers, which could affect morale and productivity. It is, therefore, not unusual for US companies to have dating policies on banning romantic relationship between a manager and a subordinate.

Disclosure Procedures

From the governance perspective, employers may consider having a



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dating policy to handle the risk and disclosure of a romantic relationship at work. Also, when two employees disclose a romantic relationship, the business can revise internal protocols to prevent over-concentration of power.

Practical tips

- Establish a dating policy. HR departments could refer to the US model when designing the corporate's dating policy.
- Communicate the policy well. In addition to written communication and handbooks to promote knowledge and compliance, there should be related training for staff across the organisation.
- Keeping the workplace safe. A clear dating policy will work together with the broader framework, including training and strong whistleblowing policy, to fight sexual harassment and provide a safe environment for victim to come forward.

In conclusion, a dating policy is an essential part of corporate risk management against vicarious liabilities and reputational risks. Directors have a fiduciary duty to uphold ethical standards. To avoid legal and reputational repercussions, the board should consider leading an organisation in designing an effective policy in this regard. 

References

1. Lin Gensing-Pophal (2023), "Love is in the Air: Workplace Romance in 2023", <https://hrdailyadvisor.blr.com/2023/02/06/love-is-in-the-air-workplace-romance-in-2023/>
2. EEOC (2023), "McDonald's Franchise to Pay Nearly \$2 Million to Settle EEOC Sexual Harassment Lawsuit", <https://www.eeoc.gov/newsroom/mcdonalds-franchise-pay-nearly-2-million-settle-eeoc-sexual-harassment-lawsuit>

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隨著「我也是 (Me Too)」運動的興起，辦公室戀情已成為全球企業管治需要關注的問題。在美國，據估計有10%員工是在工作間覓得伴侶 [1]，而約10%的性騷擾指控也是源自惡化了的戀人關係。

不過，這個議題在香港並未受到足夠的重視。《性別歧視條例》禁止性騷擾（或不接受的性要求）及對所有性別產生不恰當的工作環境，企業可能會因而招致轉承責任。

回顧美國的法庭案例，亞利桑那州的18家麥當勞特許經營商，就未有妥善管治負上了法律責任，因而支付近200萬美元，以了結多名年輕員工就不接受的觸摸、冒犯性言論、不受欢迎的性要求和威嚇 [2] 而提出的騷擾指控。

權力對等

即使沒有性騷擾，權力不對等亦會帶來聲譽風險。《金融時報》於2023年9月報導，BP的行政總裁Barnard Looney因為沒有全面披露他過去跟公司其他人員的情侶關係而辭職。


此外，管理人員跟下屬有情侶關係更會令人懷疑其可能偏私及不公平對待其他同級員工，從而影響士氣和生產力。因此，美國的公司通常定有約會政策，用以禁止管理人員跟下屬發展情侶關係。

披露程序

從企業管治的角度來看，僱主可以考慮制定約會政策以處理工作間的情侶關係風險和披露。另外，當有兩名員工披露情侶關係，企業可以修訂內部規章以防止權力過份集中。

實用提示

- 制定約會政策。人力資源部可以參考美國的模式來設計公司的約會政策。
- 清晰傳達政策。除了書面傳訊和以手冊形式促進員工對政策的認識和遵守，還應為全公司的員工提供相關培訓課程。
- 保持辦公室安全。清晰的約會政策宜配合整體框架推行，包括實施培訓課程和奏效的舉報政策，以杜絕性騷擾和為舉報的受害人提供安全的環境。

總括而言，約會政策是企業針對法律責任和聲譽風險的必要一環。各董事有受信責任維持道德標準。為避免法律和聲譽問題，董事會應領導企業就此設計一套高效政策。 

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