

Office relations guide: how to avoid being a sex pest in the workplace

It's not just the Lib Dems who are under fire over harassment claims. Organisations everywhere are struggling to respond correctly to issues arising from their employees' sexual urges. Ellen E Jones spells out what is and isn't acceptable in the modern workplace

Ellen E Jones



It seems every workplace in the land is being rocked by a sexual harassment scandal. And if even national leaders and heads of giant corporations are so flummoxed by the line between bad office etiquette, behaviour that requires disciplinary proceedings and criminal sexual harassment, what hope is there for the average office dinosaur? Here, by way of clarification, are 10 common scenarios and suggestions on how to navigate them with your dignity (almost) intact.

Scenario 1: "I am a single man and fancy one of my colleagues, who is younger than and junior to me. Is there an 'appropriate' way I can take our friendship to a sexual level?"

Not really, no. Sorry. Let's imagine, for argument's sake, that your wit always translates perfectly on the intra-office email and the harsh office lighting sets off your silver fox mane a treat; you are the George Clooneyest mofo ever to wield a Ryman's stapler. Your younger, junior colleague definitely fancies you, but sadly that's not really the issue here. As Sarah Culshaw, a partner in the employment team at Collyer Bristow Solicitors, can attest, it's not how you get into it that matters, it's how you get out. "I've had several cases where I've been acting for individuals where it's gone wrong and the junior person is then complaining and there's enough evidence that makes it look as though it was part of a harassment scenario." In short: it's not illegal. But it's not a good idea, either.

Scenario 2: "I keep hearing general gossip that one of my employees likes to grope junior staff but no one has come forward with hard evidence. My instinct is to ask him quietly to leave. Is this wrong?"

Contrary to the apparent confusion over at Lib Dem HQ, there are clear guidelines to follow. First off, you can forget about having a quiet word. This would be grounds for an unfair dismissal claim. Steve Williams, head of equality at the

government-funded Advisory Conciliation and Arbitration Service (Acas), says a formal investigation followed by a proper disciplinary process is called for, even in the case of "gossip". That might sound unduly heavy-handed, but it protects Gropey McGroperson too. "Even if these rumours are not true you need to find out why they are circulating and whether there is something about this person's management style that is leading to them." Got that, Mr Clegg?

Scenario 3: I run a small business and treat my employees like a family. I occasionally refer to the young ladies who work for me as "sweetheart" or "love". A new employee recently asked if I would use her Christian name instead. Is she overreacting? Or am I out of date?

Look at it like this, treacle: you obviously aim to create a friendly working environment, which is nice, so your new employee has done you a favour by revealing that your nicknames may not always be as well received as they are intended. Perhaps your other female employees enjoy your avuncular manner – or perhaps they'd also prefer to communicate as one adult to another. Either way, you now have the perfect opportunity to raise the issue and find out for sure. As for the individual employee in question, Jeff Havens, author of *The Super Awesome Book of Office Etiquette*, has a suggestion: "Since I'm guessing that you wouldn't be OK with her calling you 'grandpa' or 'village elder', you should respect the fact that she would prefer to be called by her name."

Scenario 4: A junior colleague has put on weight and started wearing baggy clothing. I suspect she is trying to hide a pregnancy and would like to avoid major disruption by beginning preparations for her maternity leave as soon as possible. Is it OK to just ask?

This is one of those situations where a manager, powerful and beneficent as he no doubt is, must regrettably accept the limits of his purview. To wit: other people's wombs. "Even if you suspect it, you shouldn't say 'Are you pregnant?' or even ask other people if she is, because that might result in some sort of sex discrimination claim," says Culshaw. In other words, you could ask her if she's pregnant, but a simple enquiry after the pies, and who ate them all, would probably achieve the same effect and be less legally complicated.*

Remember also that the law incentivises women to give you fair notice, anyway. "Basically, if she's going to get her benefits, she's obliged to notify you 15 weeks before the due date."

Scenario 5: A female colleague has always behaved towards me in a flirtatious manner. It never really bothered me, but following a recent promotion I'm now her line manager and I'm worried it's become inappropriate. How can I cool things off?

Steve Williams of Acas confirms that your instincts are correct: "It would be unfair on your female colleague and other members of the team if they thought that she was somehow your favourite as a result of any flirtation." But how to pull off this delicate transition without causing undue embarrassment? Don't single her out for a tête-à-tête – that could easily be misinterpreted. Instead, call a meeting to remind all your new juniors that your promotion means the tone of your interactions with them will change. True, you'll come off like an officious, stuck-in-the-mud, Billy no-mates – but that's why they pay you the big bucks. Welcome to management!

Scenario 6: "I recently complimented a female colleague on a dress she was wearing. She looked offended and has avoided me since. Did I do something wrong?"

That all depends on the nature of the compliment, doesn't it? In the interests of clarity, non-safe topics include hair, shoes and cleavages. Safe topics include, work and... that's it. Delivery also matters, as Jeff Havens points out. "Were you speaking from a respectable distance, or did you surprise her by appearing suddenly over her shoulder and whispering into her ear?" The easiest solution is an apology, and if in future you decide to limit yourself to admiring the inventiveness of her Excel formulae, no one would blame you. She will probably be just as flattered and you'll both be spared the lingering sense of unease.

Scenario 7: I had a bit too much to drink at the work party last night and made a sexual advance. Nothing came of it, but the atmosphere between us has been awkward. I have reason to believe she's gossiped about it to other colleagues. How can I restore my reputation and clear the air?

Sorry to break this to you in the midst what is no doubt a truly evil hangover, but this is potentially a bit more serious than you might think. If this individual goes on to make a complaint about you, you may well face disciplinary proceedings. "I think in that situation, I would approach her informally and apologise, hope that the gossip would go away, but consider reporting it to the line manager or HR anyway," advises Culshaw. If your suspicions of gossiping are correct, it's unlikely you'll be telling them anything they don't already know, but this way you'll have the opportunity to get your side across. "If the person he made an advance to is more junior, it's more important to report it. If there's an imbalance of any sort, it's more likely to cause problems."

Scenario 8: I have a colleague at work who is also a trusted friend. He has a habit of loudly discussing sexual matters and the physical attributes of various celebrities, and although I find it amusing, I'm worried he's making our female colleagues uncomfortable. Should I ask him to stop?

Absolutely, and not just because he sounds like a real bore. "The test in such a case is subjectively whether the claimant finds it offensive," warns Culshaw. "When it actually comes to it, will people actually go ahead with a claim? Probably not. But very often it's part of another pattern of behaviour." Sympathetic interpretation: your mate, a generally-all-round-decent-jolly-good bloke with a bawdy sense of humour, is leaving himself open to attack by any litigious employee with a grudge. Hostile interpretation: your friend's behaviour is a symptom of a toxic workplace environment which you'd be wise to distance yourself from, and sharpish.

Scenario 9: I'm in a senior managerial position at a large company. At a recent awards dinner, large quantities of wine were drunk and a younger, junior colleague became very drunk (as did I) and very amorous. One thing led to another and we ended up in bed together. Does this make me a sex pest?

Not necessarily, but you are a silly, silly man. It's not that the disparity in your age and status makes you a sex pest, it's that by clouding the issue with a hundred different potential motivations, it will make it difficult for you to prove that you are not a sex pest, should it ever get out (and it probably will – see scenario 1). Whatever you do, don't be tempted to take her aside for a Monday morning debrief. "If you go and say 'Don't say a word to anyone' then that could look like you're putting more pressure on," says Culshaw.

Scenario 10: I've just seen a colleague who's been away on maternity leave. I wanted to ask her "When are you planning to come back?" But I have a vague sense that, as I'm in a managerial position and she's not, this might be considered inappropriate – so I didn't. Now I feel that, by not asking such an obvious question, I've been unnecessarily unfriendly. Was I being unduly paranoid?

You were right to tread carefully, as the law does protect women on maternity leave from being pressured back into work. But you could have acquitted yourself with more finesse. Next time, a simple, "How's the new baby?" should suffice as small talk. Or if you really want to know when she's coming back and are feeling brave, you could venture something like: "The office has fallen apart without you, we're looking forward to having you back..." followed by an awkward pause. She may or may not choose to fill this pause with details of her return date.