

## Fracturing the conspiracy of silence

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It was not until midnight that it all went wrong. The evening had been jovial and matey, a team of lawyers celebrating with their corporate clients over dinner at Rockpool. Afterwards they piled into cabs together according to destination, and headed to their various homes.

One lawyer in her early 20s found herself in the back of a taxi with a client two decades older, speeding down Bridge Street, headed first to her home and then his. He pounced.

"He lurched across the back of the taxi in an attempt at an embrace and I sort of pushed him off," she says. He followed her to her doorstep, begging to be let in. "And I just said to the taxi driver, 'You cannot go without this man; you cannot leave me with this man.' "

The turmoil at David Jones has thrown a spotlight on sexual harassment in the corporate world. More than 25 years after sexual harassment was made illegal, it remains a problem even in workplaces with burgeoning human resources departments and shiny policy documents detailing how deeply they value women employees.

A telephone survey commissioned by the sex discrimination commissioner, Elizabeth Broderick, in 2008 found that 22 per cent of women and 5 per cent of men aged 18 to 64 had experienced sexual harassment in the workplace. It is as likely to take place in big companies as small ones. The most common targets were professional workers (31 per cent) and clerical workers (19 per cent).

On Monday a publicist, Kristy Fraser-Kirk, filed a statement of claim in the Federal Court alleging her boss, Mark McInnes, then the chief executive officer of David Jones, repeatedly made unwelcome sexual advances towards her at work functions, touching her under her top and attempting to kiss her. McInnes says he will "vigorously contest" some of the allegations.

What is significant about the case is not so much that boorish behaviour occurs in the corporate sector, but that a woman has been willing to take action so publicly. Only 16 per cent of those who had been subjected to sexual harassment in the workplace in the previous five years formally reported it or made a complaint, compared with 32 per cent in 2003, according to the telephone survey. Broderick has made the issue one of the priorities of her term.

The young lawyer who was grabbed in the back of the cab knows only too well the difficulty of making a complaint. Back in the office she spoke to an older woman about what had happened. "Her answer was, 'This is a really important client so I just suggest you don't put yourself in a situation when you are alone with him again.' "

She left it there. "When they say the client is more important than you are - that is the subtext - you don't think, 'Well, she gave me no for the answer so I'm going to take it further.' "

Another woman, working in a senior position in finance, confirms many women are advised not to take action because of the damage it will do to their careers. "Some people think, 'Good on you', but there are enough people who matter saying 'Silly girl', or 'You should have done it privately.' "

There can be a gulf between policy and practice. When Fraser-Kirk started work with David

Jones she was handed a document entitled *Code of Ethics and Conduct*. As her statement of claim noted, the code made it clear that harassment - defined as subjecting people to unwelcome or uninvited attention that intimidated, humiliated or offended - was unacceptable.

The document bore the signature of the chief executive officer and stated he was personally committed to demonstrating the spirit, intent and actions of the code.

Kate O'Reilly, who left her job as a corporate finance director to found Optimiss Consulting, which advises companies on gender diversity, says she grew tired of the lip service that was being paid to these issues.

When working in finance she knew of a personal assistant who was awarded a silver cup at a Christmas party for "being on everyone's 'to-do' list". The attitude was "that's just how it is, you don't understand the people involved; it's funny".

Jane Seymour, a partner at Gadens Lawyers who has been working in sexual harassment for almost 20 years, says that one of the difficulties people face is knowing where to draw the line, a task complicated by the fact colleagues can and do engage in consensual romantic relationships.

She led a training session a couple of years ago in which one man shook his head as she explained it could be sexual harassment to keep asking someone out on a date if they refused the invitation.

"He said, quite despondently, 'But that's my technique! Wear them down!' The problem of course is that some individuals do not perceive the impact of their conduct." She advises managers to act, even when someone is reluctant to make a complaint "formal".

But one senior female executive says the David Jones case has already changed the corporate landscape, giving women confidence to bring forward complaints against senior executives knowing something may be done. "I know of three in the last week," she says.

O'Reilly says the first issue she addresses when advising companies is leadership. But she also addresses the cost to business. As the David Jones case shows, taking swift action may not simply be a matter of principle; it may make sound business sense.

*This story was found at: <http://www.smh.com.au/national/fracturing-the-conspiracy-of-silence-20100806-11oij.html>*