

Guidance for employers when dealing with Christmas Parties

Many employers can face problems over the Christmas Period, particularly with regards to the fall-out from the office Christmas party. Although the Christmas party is intended to be jovial and a chance to unwind after the busy Christmas period, it does carry various legal implications. Drunkenness and inappropriate behaviour resulting in resignation and harassment claims have resulted in many firms cancelling this year's Christmas party. Research suggests the figure could be as high as 80-90%. On the other hand a Christmas Party can have the effect of boosting morale among staff. Employers need to weigh this up and strike a balance between boosting morale and avoiding the cost of litigation.

However by focusing on potential areas of concern and planning ahead to avoid them, employers can make it a happy Christmas for its staff thereby reducing the risk of Industrial Tribunal claims. In today's "compensation culture" employers would be well advised to keep the following guidelines in mind:

Outline a "Christmas Party Policy".

From an employer's point of view the Christmas Party is still classed as a "work activity". Therefore it should be treated as such by having guidelines in place. Employee responsibilities and acceptable standards of behaviour should be displayed on a notice board. This should also include the employer's responsibilities such as meeting health and safety requirements and providing grievance procedures.

Carry out a risk assessment

Just like any other work activity potential hazards must be identified. For example providing transport to and from the venue to discourage drink driving or providing the phone numbers of local registered taxi companies. Other considerations include inspecting the venue for slippery surfaces and adjusting the seating plan accordingly to

avoiding conflict between particular employees.

Inviting wives, girlfriends etc of staff

To avoid potential sexual orientation discrimination claims this should include both partners of the same sex and opposite sex.



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Avoid work-related discussion

Conversations with an employee in relation to career prospects, promotion, or salary should be avoided. This should be limited to a formal appraisal or meeting. However, in *Judge v Crown Leisure Ltd* [2005] a promise at a Christmas party to increase wages was not held to be contractually binding!

Health and safety issues

An employer has a "duty of care" towards its employees. Therefore they may be legally liable for the welfare of an employee if they suffer from drink related injuries, even if they occur off the company premises. The same applies to food which should be safe to eat to avoid food poisoning.

Mistletoe Misbehaviour

An innocent kiss under the mistletoe may cause no harm at the time, however it could incur repercussions when employees return

to work. It can cause embarrassment and place unnecessary strain on working relationships, which may affect productivity. If an employer has a formal policy on workplace relationships employees should be informed ahead of the party.

The Morning After

An employee is contractually obliged to be in a fit state to perform the duty that they are paid to do. It is also a safety issue as employees who drive or operate machinery may not be fully sober the next day. Before the party staff should be reminded that failure to attend work could result in disciplinary action.

Harassment Policy

In law a harassment claim stands even if the offence took place "in work or at a work-related function", which includes company parties. A harassment policy is therefore important to protect an employer from harassment claims and staff should be reminded beforehand of its existence.

Many employers may dismiss the guidelines

as adopting a Scrooge-like mentality to the festive season. However the significance of having clear rules, properly communicated to the workforce, was expressed in the leading case of *W Brooks & Son v Skinner* (1984). In that case an employee had been dismissed for over-indulging at the firm's Christmas party and as a result being unable to attend his next working shift. The company had agreed with the union that this misconduct would merit instant dismissal, this agreement being reached after difficulties had been experienced the previous year with absenteeism following the party. Nevertheless, the dismissal was held to be unfair by the employment tribunal and this decision was upheld upon Appeal. The fact the decision to dismiss the employee for this particular category of misconduct had not been communicated to the employee was important.

Employers would be advised to bear the above guidelines in mind to ensure time after Christmas is spent reflecting on a well-earned holiday instead of being bogged down in expensive and unnecessary litigation.