Managing Office Christmas Parties

Whether an office Christmas party takes place within working hours, out of hours, in the office or away from the office, it is considered an extension of the working environment.

While no one wants to be the office scrooge and take away the positive outcomes of an office Christmas party, employers should be aware of the risk of unsavoury incidents that could occur at such events and take steps to minimise the risks and provide a safe environment for employees.

Things to consider:

- Make the event inclusive and remember employees who are on family related leave or sick leave;
- Opt for a venue which is accessible to all employees and which is not likely to offend employees of a particular religion or sex for example;
- Select entertainment that is not likely to be viewed as offensive by any employees;
- Remind employees about the Company's expectations and policies in relation to disciplinary and grievance, harassment, and social media and define acceptable behaviour;
- Control the amount of free alcohol available, supply plenty of soft drinks and food bearing in mind employees who do not drink alcohol or have dietary requirements;
- Be prepared to deal with any allegations, inappropriate behaviour and violence seriously and sympathetically in line with the Company's policies and procedures;
- Avoid discussions about career prospects or remuneration with employees, as words of encouragement and good intentions could be misinterpreted.

Invitations

Employers should ensure that all employees are invited to the office Christmas party as a matter of good practice and also to avoid any complaints of discrimination. It is important to extend invitations to employees on maternity or paternity leave and it may also be appropriate to invite those on sick leave depending on the nature of their illness.

Employers should not insist that all employees attend the Christmas party. Where the party takes place out of office hours, employers should remember that employees may have other responsibilities which may prevent them from attending. Employers should be careful not pressurise employees of non-Christian faiths into attending the Christmas party if this would make them feel uncomfortable.

Venue, entertainment and speakers

Choosing the right venue for the Christmas party can be a huge responsibility. The principle aim is to enable all employees to attend the party and enjoy the occasion. Employers should consider hosting the party at a location that is accessible by all employees, suitable for employees of all ages, and provides facilities for those with a disability. Venues which might offend those of a particular religion or sex should be avoided as this could result in claims for discrimination.
Employers should be aware that they could also be found liable for third parties who cause trouble at such events. By way of an example, one employer hosted a party outside the workplace and invited Bernard Manning to be their speaker. The result? The employer was held liable in a claim by one of the Afro-Caribbean waitresses at the event who was offended by Bernard Manning’s racist jokes. Employers should consider briefing any speakers or entertainers in advance of the party to ensure that their material is suitable and will not cause offence to employees or third parties.

**Pre-party guidance and policies**

Drink-fuelled behaviour is the root cause of many tribunal claims each year, so employers should set clear guidelines on the accepted standards of behaviour at office Christmas parties. Employers should make it clear that excessive alcohol consumption, fighting, other unwanted conduct and discriminatory remarks will not be tolerated. Employers should also highlight any likely consequences or disciplinary sanctions which could result from such behaviour.

It is always helpful to remind employees of the relevant policies and procedures that are in place.

**’Tis the season to be jolly**

While it is difficult to stop employees from over-indulging during the festive period, limiting the amount of free alcohol at the office party, providing non-alcoholic options and supplying enough food can all help minimise the risk of employees getting too merry. Remember to keep an eye out for office juniors as employers cannot allow under 18’s to drink.

Employers should also be sensitive to employees who do not drink alcohol or who do not eat certain foods and ensure that the catering arrangements take account of different individual and religious dietary requirements.

Employers have a duty of care towards employees in the course of their employment and this duty extends to events like the office Christmas party. To reduce any risk, many employers take post-party travel arrangements into account when planning their party by, for example, ending the party before public transport stops running, or booking locally registered cab companies to take party-goers home.

**Bullying, harassment and discrimination**

The case of *Nixon v Ross Coates Solicitors* provides a perfect illustration of one of the many problems that can arise as a result of office Christmas parties.

An employee claimed constructive dismissal, sex and pregnancy discrimination and harassment after gossip arose at work about her pregnancy following events at a Christmas party, where she was seen kissing another employee and going to a hotel room with him. The HR manager knew of the employee’s pregnancy and began speculating with other employees about who the child’s father might be. The employee raised a formal grievance but it was not dealt with. She brought a claim to an Employment Tribunal where she lost, but, on appeal, the EAT held that the Tribunal had been wrong not to make findings of sex discrimination, pregnancy-related discrimination and harassment.

Interestingly, in that particular case, the fact that the employee had put her sexual life into the public domain, and acted in a way which was bound to provoke gossip, did not assist the employer in relation to either liability or quantum.
This case should serve as a reminder to employers of the need to take precautions before, during and after office parties. If employers have policies and procedures in place which cover the key issues like discipline and grievance, bullying and harassment, and discrimination, they will be in a much better position to handle these sorts of issues when they arise.

**Making Promises**

The best advice for managers is not to discuss career potential or remuneration with employees, as words of encouragement and good intentions could be misinterpreted.

In the case of *Judge v Crown Leisure Limited*, an employee claimed his manager had promised to increase his salary during a conversation at a Christmas party. The employee subsequently resigned and claimed constructive dismissal on the grounds that the manager had broken a contractual promise. The Tribunal found that the promise was too vague to amount to a binding contractual promise. On appeal, the EAT held that the context of the conversation (being the Christmas party) indicated that the manager did not intend to enter into any legally binding contractual commitment to the employee, but it is easy to see how an alternative conclusion could have been reached if the discussion had been a little more specific, for example.

**Tweeting**

The increasing use of social media platforms and sites including Facebook, Instagram and Twitter add yet another risk associated with the office Christmas party. It is very tempting for users of these sites to upload photos of their colleagues often looking a bit worse for wear. This could raise data protection issues if those appearing in photos have not consented to their images being uploaded on to social media sites. There is also a risk of employees posting inappropriate messages on social media sites which could cause offence or embarrassment to anyone referred to in the post or to the employer.

Such activities could damage the reputation of employees and the trust between colleagues, and in serious cases could bring the employer’s name into disrepute. Employers are advised to have social media policies in place and ensure employees are informed of the likely consequences or disciplinary sanctions which could result from inappropriate use of social media.

**Post-party absenteeism**

Employers should decide how lenient or not they will be in relation to lateness or absence for work on the morning after the office party. Employees should be made aware that absences will be monitored and that disciplinary action could be taken if they fail to turn up for work because of over-indulgence if that is the stance employers wish to take. Employers should also be vigilant of employees who arrive at work still drunk, especially if they will be driving or operating machinery as part of their job.