

The most common Christmas Legal Disasters..... and how to avoid them!

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The Christmas season is nearly upon us and generally the work Christmas party marks the start of a period of celebration, relaxation and rest. By now emails will be whizzing around the office with ideas for the Christmas party. Surely it is no more than deciding where to go, what to do and maybe having a secret Santa?

Unfortunately due to the breadth and the impact of employment law, nothing is ever that simple. In fact the Christmas season and particularly the work Christmas party is rife with potential litigation risks.

But what pitfalls lurk in the hidden corners of the Christmas party season? Follow these top tips to make sure that the post-festive "January blues" do not include a legal disaster for your business.

Do not assume that the work Christmas party is not a 'work' event!

Although the party may take place outside of work hours, and often at a 'neutral' venue, any such 'work related' occasion will be considered as being 'in the course of employment'. Employers should be advised to err on the side of caution and assume that their legal obligations and duties to their employees still apply at work social events.

Swallow your drunken promises!

The well lubricated Christmas party brings an artificial sense of ease and openness among work colleagues. Resist the temptation to promise to increase an employee's salary because the egg-nog and spirit of happiness have overcome you. Performance and salary reviews are best kept for the usual time of year. A promise made at the Christmas party can become a legitimate one for an employee who will expect that the promise is kept once the decorations have been taken down. A broken promise can produce a claim for breach of trust and confidence and result in a claim for 'constructive unfair dismissal'. Of course apply the same principles and do not use your relaxed party as an occasion to appraise your employees past year's performance, especially if the feedback is negative!

You may be Judged liable for the sins of your employees!

Employers can be 'vicariously liable' for the discriminatory acts of their employees. Therefore be warned! Do not forget that Christmas is a Christian event. For example, attendance at Christmas parties should not be mandatory. So, be aware of the party organiser (usually an over-enthusiastic employee) intimating to other employees that non-attendance of the Christmas party will be frowned at. This could result in claims of discrimination on the grounds of equality and belief. Remember that compensation for discrimination claims is unlimited.

Forget the mistletoe!

Employee harassment and discrimination can result from a single one-off incident and can cover stealing a kiss under the mistletoe or sending a colleague an offensive Secret Santa present. Remember that you can be judged liable for the sins of your employees. It is no defence that "it was a joke" or "harmless flirting" if the employee takes offence and feels embarrassed, degraded or humiliated.

Christmas comes in all flavours!

The restaurant for the Christmas lunch has been booked. You have remembered to ask the staff, "are there any vegetarians?" But will this suit everybody? Remember to be sensitive to more subtle forms of discrimination and ask the broader question, "are there any special dietary requirements?" for example, based on religious needs such as halal and kosher foods.

Health and Safety still applies!

Do not forget the health and safety of your employees. As well as making sure that your employees are well fed and entertained, make sure that the venue caters for any disabilities and do not forget that your responsibility should also extend to making sure that your staff get home safely.

Employee risks are not just for Christmas!

Well drafted working policies can set out the level of behaviour expected in the 'work environment' and can mitigate many of the risks associated with the office party. But they should be in place all year round, to show that as an employer you are doing your best to prevent discrimination. These procedures should include equal opportunities and dignity at work policies. Your employees should be clear what is acceptable and unacceptable behaviour and when these levels of standards will be expected from them.

And finally one last tip; be an employer akin to Father Christmas and not Mr Scrooge.