

# CHRISTMAS PARTIES AND AVOIDING THE HR HANGOVER

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*Thank you for joining  
The webinar will begin shortly*

## Christmas parties and avoiding the HR hangover

LUNCHTIME WEBINAR – 8 NOVEMBER 2022

The Christmas Party season is just around the corner and after years of Covid restrictions your staff may be raring to let off steam. Yet the heady mix of high spirits and free-flowing alcohol can leave employers with an HR hangover. What can you do to ensure the end of year celebration is remembered for all the right reasons?

In our latest lunchtime webinar, our expert team will discuss the following issues:

- How to make sure the Christmas party is safe and inclusive.
- Are you always responsible for the behaviour of staff at social events?
- A look at some common problems that arise including:
  - Budding romances vs. unwanted sexual advances
  - Excessive alcohol consumption and its consequences
  - Drug taking
  - Fighting
  - Office gossip after the event
- Dealing with complaints and employee misconduct.

**Date:** Tuesday, 8 November 2022

**Time:** 12.00pm – 12.40pm

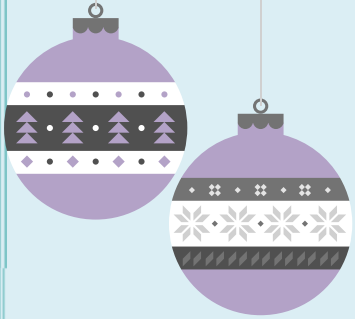
Please click [here to register](#) for the webinar.



**Samantha Prosser,**  
**Senior Associate**



**James Hockley,**  
**Associate**



# **How to make sure your Christmas Party is inclusive and safe**



# Is it going to be inclusive?

- Invite all staff and don't forget those who are absent
- Underline that attendance is optional
- Take soundings from staff about what they want
- Specific issues to think about:
  - Name, day and date of the party
  - The venue
  - Food and drink



# Is it going to be safe?

- Health and safety laws:
  - Duty to take care of the health and safety of staff
  - Requirement to assess and control risks
  - HSE may take enforcement action for breaches occurring at social events
- Other obligations which could lead to claims against you:
  - Implied term of employment contract
  - Duty of care not to cause harm to staff (negligence)

# Dos and Don'ts

## ✓ Identify and control risks:

- At the venue (e.g. fire escapes, trip hazards)
- Key risks from the event (e.g. loud music, excess alcohol)
- Travelling home

## ✗ But you don't need:

- Signed declarations from staff that they will not behave inappropriately
- Special training for those conducting the risk assessment
- Risk assessment of all possible forms of inappropriate behaviour
- Trained staff to monitor the event



**Are you always responsible for the  
behaviour of staff at social events?**

# Vicarious liability for negligence



Negligence by an employee at a Christmas Party may pass this test, but it will depend on the facts – cases going both ways



# Vicarious liability for discrimination and harassment

- Employers are legally responsible for anything done by an employee “in the course of employment”, regardless of whether the acts were done with its knowledge or approval
- “In the course of employment” covers social events:
  - ✓ Stubbs: vicariously liable for sexual harassment occurring at after work drinks
  - ✓ Livesey: vicariously liable for sexual harassment occurring at work Christmas Party and in the taxi home

# The “reasonable steps” defence

- Employer will **not** be vicariously liable for an employee’s discrimination or harassment where it has taken all reasonable steps to prevent the employee from doing the act
- What are “reasonable steps”?
  - ✓ Well-drafted equal opportunities and anti-harassment policies
  - ✓ In-depth staff training, refreshed from time to time
  - ✓ Effective response to complaints
  - ✓ Extra vigilance if you are aware of a potential risk

# Steps to limit the risk of vicarious liability

Remind staff of expectations and link to relevant policies

Outline consequences of inappropriate behaviour

Underline to managers that they have special responsibilities

Think about whether training should be refreshed before the party

Deter staff from “after parties”

Deal with complaints swiftly and effectively



# Common problems arising at work Christmas Parties

# Excessive alcohol

- “Loose lips”
  - Harassment
  - Breaches of confidentiality
  - Insubordination
  - Bad language
  - Managers making promises
- Embarrassing behaviour
- Hangovers and “pulling a sickie”



# Budding romances



- No laws prohibiting consensual relationships at work but:
  - Risk of conflict of interest
  - May provoke complaints of bias and lead to decreased morale
  - Likely to generate office gossip
  - Fallout if relationship breaks down
  
- Consider a “Relationships at Work” policy governing behavioural standards and conflict issues



# Unwanted sexual advances

- Unwanted conduct of a sexual nature may amount to unlawful sexual harassment
- Sexual harassment may occur even where:
  - Victim has encouraged certain behaviours
  - It is a one-off incident
  - The behaviour is directed towards another person
- Is a budding romance actually unwanted conduct? Be alert to risk factors

# Drug-taking

- Is the employee dependent on drugs?
  - May be a symptom of disability
  - Advisable to obtain medical evidence to understand whether disabled and prospects of rehabilitation before moving to dismiss
  
- Is the employee taking the drugs recreationally?
  - Will usually justify summary dismissal
  - Check that your Disciplinary Rules stipulate that drug use will be treated as a gross misconduct offence
  - You still need to investigate and conduct a fair process

# Violence and fighting

- Violence and fighting will usually justify summary dismissal – potentially of all participants
- May be factors which mean dismissal is not appropriate:
  - Provocation / self-defence
  - Provision of an unlimited free bar
  - Other mitigating factors
- If one party is injured in a fight, you may be vicariously liable for the actions of the perpetrator – Bellman v Northampton Recruitment Ltd

# Gossip after the event

- Gossip:
  - Bad for team morale
  - Bullying and constructive dismissal
  - Discrimination/victimisation
- Don't forget online comments





# Dealing with complaints and misconduct

# Dealing with complaints and misconduct

- Complaints:
  - Take them seriously and deal with them promptly
  - Take steps to support the victims of harassment
  - Protect against victimisation
  - Criminal behaviour and reporting to the Police
- Disciplinary action for misconduct:
  - Regulatory consequences
  - Parallel criminal process



# Our contact details

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