

## Employment

### The Christmas Party Season

It's that time of year again, when the office starts to hum with excitement for the Christmas party. A chance for colleagues to enjoy the festive season and shake off some of the formalities of work life and get to know their colleagues a bit better.

For many employees, the Christmas party can leave a few sore heads from over indulging on the mulled wine, but for employers, the Christmas party can sometimes bring more than just a headache.

#### Vicarious Liability

Employers generally understand that issues that arise out of the bad behaviour of their employees whilst they are in the office can result in disciplinary proceedings or tribunal claims. However, in certain circumstances, even where the incident occurs outside of the office the employment relationship may still be engaged and the company may still be liable. Please see our article on vicarious liability from [10th November 2017](#) for more information.

The Christmas party can throw up many difficult problems for an employer and we look at a few of them in this newsletter.

#### Bringing the Company into disrepute

In getting away from the office, employees can find themselves enjoying the Christmas party in a public venue such as a pub or restaurant. With the alcohol flowing, some employees may find themselves losing a little self-control. The employees need to remember that they are still a representative of the company and they should conduct themselves accordingly.

If an employee acts in a manner which may bring the company into disrepute, the employer can still consider taking disciplinary action against them. This is not always obvious to the employees, so it is worth advising the team, before the Christmas Party, that they should conduct themselves appropriately throughout the party.

#### Sexual Harassment

Relationships between colleagues are not unheard of in the office and many employers have policies on the subject. Unfortunately, in the heat of the moment, some employees may forget themselves and overstep the boundaries of acceptable behaviour.

The legal definition of harassment covers unwanted conduct of a sexual nature which is intimidating, hostile, degrading, humiliating or offensive. There is little prospect of an employee successfully defending themselves on the basis that they were drunk and not thinking or because they were at the Christmas party. Behaviour of this kind will almost certainly amount to sexual harassment for which both the employer and the employee may be liable.

#### Drunken Promises

A generous employer may find themselves, after a little overindulgence, making offers to their team which they might later regret. For example, if a manager makes an offer to increase an employee's pay or pay a bigger bonus then this can potentially lead to a binding variation of their employment contract.

It is worth including a term in the contract that requires variations to be in writing and signed by the parties to avoid the risk of an employee taking advantage of a manager under the influence.

**If you have any questions about the issues that may arise out of your office Christmas Party, please contact our Employment Team.**

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