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## The Christmas party - Avoiding the Pitfalls

**It is well established that employers are vicariously liable for the actions of their employees in the course of their employment. This can include actions which take place outwith the workplace, and outside of normal working hours. With the Christmas party season in full swing, here we examine the potential pitfalls that employers should be aware of when organising their Christmas festivities.**

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### Harassment

The Employment Equality (Sex Discrimination) Regulations 2005 came into force on 1 October 2005. The Regulations include an express prohibition on **harassment**, including sexual harassment. A man will be guilty of subjecting a woman to harassment (and vice-versa) if:

- on the grounds of her sex, he engages in unwanted conduct that has the purpose or effect of violating her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for

her; or

- he engages in unwanted verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect of violating her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for her; or
- on the ground of her rejection of, or submission to, unwanted conduct, he treats her less favourably than he would have treated her if she had not rejected or submitted to that conduct.

Unfortunately a party atmosphere, coupled with alcohol and a barrage of mistletoe, can bring out the worst in some people, and all too frequently this can lead to complaints of sexual **harassment** from employees.

You may, therefore, want to consider sending a memo to your employees prior to your Christmas party, reminding them of your harassment policy. Furthermore it may be wise to have a few senior members of staff assigned the role of monitoring your Christmas party, to identify any potential situations, and curb any offensive behaviour before the situation develops.

## **Discrimination**

As Christmas is a state holiday as well as a Christian holiday, holding a celebration at Christmas is not likely to fall foul of the Employment Equality (Religion and Belief) Regulations 2003.

If however, you present your Christmas party as being a “boozy knees up”, this may alienate employees whose faith might require them not to attend, and therefore be discriminatory.

Further, you should not insist that an employee attends a Christmas party, if that employee declines to attend as a result of their religion or belief. Likewise, beware of insisting female employees with childcare commitments attend your Christmas party as you could run the risk of a finding of sex **discrimination** being made against you.

## **Health and Safety**

The venue for your Christmas party should be carefully checked before the big night, to ensure that the facilities are suitable. For example you should check that there are fire exits available. Furthermore, you should ensure that the premises are accessible to those with disabilities, to prevent a claim for **disability discrimination** being raised against you. If you have employees that are confined to a wheelchair, make sure that they will have plenty of room to manoeuvre.

- Prior to arranging your Christmas party identify the potential risks, and plan accordingly. For example, if you are concerned about problems arising due to employees consuming too much alcohol, keep the amount of drink supplied by you to a minimum, and make sure that food is provided. Also, a later start means that employees will have less time to consume alcohol.
- Identify the different religions that form part of your workplace, and try to ensure that your Christmas party has something for everyone.
- Ensure that your venue is health and safety compliant, and accessible to all.

- Consider sending a memo or email to all employees prior to your Christmas party outlining your policy on harassment, and making it clear to your employees that although the party may be taking place outwith working hours, their actions will still be deemed to be in the course of their employment.