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LawTalk Blog



## Work Christmas parties – think before you drink

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Generally speaking, a workplace Christmas party will be an enjoyable occasion for colleagues to relax and spend time together before the Christmas holidays, outside the demands of the workplace.

However... the potential for the workplace Christmas party to turn into a workplace nightmare can occur very quickly if employees are not mindful of their behaviour.

Employees need to be aware that the Christmas Party is still a work function requiring the same obligations and appropriate behaviour that is required in the workplace. While encouraging a relaxed and enjoyable atmosphere, employers will expect acceptable and responsible behaviour from their employees for the health, safety and wellbeing of all employees.

Employers continue to have a duty to employees at workplace functions for their health and safety. For example they must ensure the responsible consumption of alcohol by providing plenty of food and water, providing safe transportation arrangements after the event and ensuring all employees are aware of relevant policies such as harassment, work health and safety.

Common issues at workplace functions which may be cause for potential workplace disciplinary action include:

- Sexual harassment/discrimination claims
- Violence and assault
- Indecent exposure
- Behaviour damaging the trust and confidence of the employment relationship

- Acting in a way that is not consistent with the employer's best interests
- Offensive language and drunken behaviour

While many employees take the view that out of hours conduct is not the employer's business, the current case law shows that there are circumstances when the employment relationship does extend to out of hours conduct. A workplace Christmas party is such an occasion. An employee may face disciplinary action for any conduct that may be deemed to damage the reputation or interests of the employer including offensive, drunken and violent behaviour. Any conduct that puts employees at risk of their health and safety may also warrant disciplinary action or potential termination.

Employees may also face criminal charges for such conduct in addition to disciplinary action by their employer. Depending on the particular industry or role, criminal charges may result in severe consequences for employment if such activity is inherently inconsistent with the employee's position; for example a teacher sexually engaging with a student.

The potential for disciplinary action doesn't stop once you have walked out the door of the workplace Christmas function. Current case law suggests that even a social gathering organised between colleagues can result in the potential for an employer to invoke disciplinary action in exceptional circumstances, including any conduct that occurs at other venues after the workplace Christmas party has finished.

If an employee is facing [termination](#) for out of hours conduct, the Court will consider the usual criteria for addressing whether the conduct was harsh, unjust and unreasonable taking into account all the circumstances. The Court will consider whether there was a valid reason including the evaluation of the employee's contract, policies and procedures and any previous misconduct.

If you are facing possible disciplinary action of termination as a result of conduct at your Christmas party or have suffered from some inappropriate conduct by a colleague, please contact our office on 8238 6666 for assistance.

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