



## Christmas in the Workplace

During the Christmas period companies face a minefield of potential HR challenges and we feel the best way to deal with these is to be prepared. Typically the challenges come from four main areas:

- Workplace Christmas parties are often the highlight of a company's social calendar but it's not uncommon for employees to behave inappropriately whilst having a good time.
- Annual leave requests are often concentrated at Christmas when a company only closes on Christmas Day, Boxing Day and New Years Day as employees look to spend as much time with their families as they can.
- It's not uncommon for employees to receive gifts from customers or suppliers at Christmas, or indeed for these to be given by your employees.
- Christmas is a Christian festival and is not celebrated by all religions.

### What Should a Company Do to Prepare For the Festive Season?

The first step is to ensure that employees understand that the Christmas party is an extension of their workplace and that whilst the intention is that everyone has a good time and enjoys themselves, they need to behave appropriately and that any misbehaviour will be dealt as a disciplinary matter.

You may want to consider the option of issuing a statement to employees in advance of a Christmas party or similar work-related event to this effect. This statement might remind employees of conduct issues, including the dangers of excess alcohol consumption, and behaviours that could be viewed as harassment.

This statement could also remind employees of your anti-bribery policy and specifically that they must record all gifts and hospitality that is offered and/or received with their Manager.

### Does the Company Really Need a Policy on Workplace Social Events?

Not necessarily although it's a good idea to make sure that your disciplinary policy and procedure clearly states that it extends to company social events.

## **Is a Company Responsible For What Happens at a Christmas Party?**

It is prudent to assume that a Company will be liable. Legislation (the Equality Act 2010) refers to the term 'in the course of employment' and this would include company social events such as a Christmas party.

In *Chief Constable of the Lincolnshire Police v Stubbs and other*, a police officer complained of sexual harassment by work colleagues in a pub outside working hours.

The Employment Appeal Tribunal held that social events away from the police station involving officers from work either immediately after work, or for an organised leaving party fell within the remit of 'course of employment'.

## **Can Employees Be Disciplined for Misconduct After a Christmas Party?**

Yes, if the incident is sufficiently closely connected to work to have had an impact on the working situation. In *Gimson v Display By Design Ltd*, the employer was found to have fairly dismissed an employee for a brawl after the end of a Christmas party.

## **Do Christmas Festivities Discriminate Against Those of Other Religions?**

It is unlikely that holding a Christmas party would in itself be seen as religious discrimination because generally these parties are more about having a staff get-together and boosting morale than celebrating religion.

A Company should have a policy on religious observance during working hours and be supportive towards employees whose religious festivals fall at different times of the year.

## **Can an Employee Insist on Taking Holidays During the Christmas Period?**

No. Employees must give notice equal to twice the length of the holiday that they wish to take, or longer depending on your company policy.

You can then give counter notice requiring that the leave not be taken, so long as this counter notice is equivalent to the length of the holiday requested, and the worker is not prevented from taking the leave to which he or she is entitled in that holiday year.

Where an employee has accrued untaken leave and gives reasonable notice to the Company to take the leave, a company must have valid business reasons for refusing the employee's request to take leave.

Where an employee insists on taking leave and does so without approval, you should approach the issue sensibly and be careful not to impose a disproportionate penalty on the employee.

In *Stott v Next Retail Ltd*, an employee who was dismissed for failing to attend work without permission on Christmas Eve was found to have been unfairly dismissed by an employment tribunal.



### **What If An Employee Comes to Work Late or Not at All The Day After the Christmas Party?**

A company can make deductions from employees' pay if they turn up for work late the morning after the company Christmas party as long as the right to make deductions from wages for unauthorised absence is reserved in the employment contract.

If disciplinary action is to be taken for lateness or non-attendance after the Christmas party, a Company should ensure that employees are informed that this is a possibility in the disciplinary policy.

Where an employee does not attend due to illness, you should follow your attendance management policy and procedures.

### **Can a Company Make Their Employees Work Bank Holidays?**

Yes. There is no statutory right to time off during bank holidays. This depends on the contractual arrangements regarding bank holiday working.

Further, there is no statutory requirement to pay employees extra for bank holiday working, but a company should observe contractual terms or custom and practice regarding pay rates.

### **What if a Christian Employee Refuses to Work on Christmas Bank Holidays?**

Companies should be aware of their obligations under the Equality Act 2010, which protects employees against direct and indirect discrimination because of their religion.

While employees do not have the explicit right to time off for religious observance, a refusal to grant Christian employees time off for any bank holidays with religious significance could amount to indirect religious discrimination.

