

EMPLOYMENT LAW AT CHRISTMAS: 'TIS THE SEASON TO BE CAUTIOUS?

With the Christmas period fast approaching it can be easy to get wrapped up in the festivities. We set out below our top 12 Christmas considerations for employers in order to make the festive period as successful and enjoyable as possible for employers and employees alike.

1. The Christmas Party “Disclaimer”

Whilst an email about workplace policies and duties ahead of the Christmas party may be somewhat of a ‘buzzkill’, it is essential that employees are aware that workplace policies on conduct still apply during the course of the office Christmas Party and in any social setting more generally.

We would recommend making clear reference to the policies and the ramifications of breaching said policies as well as the procedure for raising any issues that may arise during the festivities.

2. When does a social event stop being a “work event”?

Over the course of the Christmas period there may be multiple gatherings or parties which are not organised by the employer but rather between colleagues or departments.

Liability risks can extend to post-party activities and/or informal after-work drinks if they are perceived as an extension of the official event/workplace. Employers should clarify when any official event ends and discourage unofficial after-parties. In addition to ensuring all employees are aware of the relevant policies, regular training on workplace behaviour, including harassment and bullying, helps set clear expectations.

3. Protecting the company’s reputation

An employer may also wish to refresh and refer to any social media policies or privacy notices in place so as to avoid the sharing of photos without an individual’s consent, or a photo from the Christmas party making its way onto social media that is damaging to the Company!

4. Senior Management playing Santa

Alcohol can be a great equalizer, however employers need to be cautious that the line between senior management and other staff can sometimes become blurred at Christmas parties or gatherings. Sometimes employees are promised things (such as pay rises) that the company cannot or does not want to follow through on or confidential information is shared inappropriately. Ensure that senior management are sufficiently trained on how to conduct themselves whilst out with their team members at Christmas.

5. Religion or belief discrimination

Employers and employees alike should be conscious that Christmas means different things to different people. Employers need to ensure any celebrations are reasonable and respectful so as to avoid any potential claims for direct or indirect discrimination on the basis of religion or belief.

6. The Christmas Bonus

Christmas bonus payments can be contractual, performance-based or completely discretionary. Regardless, an employer should ensure there is a clear, documented rationale behind them which applies fairly across staff. Employers should be sure to manage employees’ expectations as the regards any Christmas bonus.

7. Contract review

For some companies, December marks the end of the financial year and an opportunity to reflect on the year's performance and plan for the upcoming year. As such you may wish to undertake a review of contracts, restrictive covenants etc. to ensure that what is in place is "fit for purpose" and that the business is sufficiently protected for the year ahead.

8. Annual leave over Christmas

As with any time of year, it is important that employers allow their employees to enjoy any annual leave taken and take some proper time away from work. Particularly over the Christmas period an employer should encourage their employees to log off (properly!) whilst on annual leave and take time to reset ready for the New Year.

Inform clients/customers of holiday hours so that their expectations of service delivery are managed.

9. Holiday requests

Companies can face issues around Christmas where all their employees are expecting to be given the same days off work. If this is not feasible for your company we would recommend setting clear boundaries early on in the year regarding the requesting and granting of annual leave over the Christmas period to avoid employee disappointment and/or understaffing.

10. Employee Wellbeing

We must remember that Christmas is not the most wonderful time of the year for everybody but can instead feel completely isolating for some. Remember to check in with employees or colleagues throughout the Christmas period and consider whether sufficient support is being offered to those who may struggle with the festive period.

11. Responding to Incidents

Have a plan for addressing any incidents that occur, including immediate steps to ensure safety and a process for investigating and responding to any complaints or issues which arise.

12. Health and Safety and Remote Working

With winter comes potential hazards like flu season and slippery conditions. Ensure that health and safety protocols are up to date. If applicable, consider how remote work will be handled during the festive period, including technology support and communication strategies.

If you require assistance implementing any of the above considerations, please do not hesitate to contact DQ's employment team.

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