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FUN AND SAFETY NOT MUTUALLY EXCLUSIVE AT WORK CHRISTMAS PARTY

One of the most common ways for businesses to reward their employees and thank them for their hard work is to throw an end of year party where staff can let their hair down and leave the stresses of the past 12 months behind.

While a staff Christmas party is a celebration, Canberra Business Chamber warns employers must treat it as more than a simple knees-up.

“Workplace functions have the potential to cause major employment problems. In the blink of an eye, the annual Christmas party can turn from revelry to litigation due to the possibility of harassment claims, problems due to alcohol or drug use and other inappropriate behaviour, not to mention the cost of unanticipated absences as a result of the ‘morning after’,” Canberra Business Chamber CEO, Robyn Hendry said.

A history littered with legal cases stemming from staff behaviour at company events strongly suggests employers planning to host Christmas parties need processes in place to minimise risks.

An employer may be vicariously liable for the acts of employees done in the course of their employment – irrespective of whether the employer knew or approved of the offending conduct or if it is outside the usual place of work.

For example, in one recent case, it was held that the employer's liability was not confined to the workplace when offensive comments were made to a colleague during post work drinks at an employee's leaving party.

“To make sure everyone’s good cheer remains untainted into 2017, there are certain precautions businesses can put into place for their Christmas event,” Ms Hendry explained.

One of the most important measures is to make sure staff are fully aware of expectations and that conduct at the Christmas party is covered by the employer’s usual equal opportunity and anti-harassment policies. Warn staff that if they wouldn’t say it or do it between 9 and 5 any other workday of the year, then it is probably inappropriate even while having a fun time; and just as it would be in the office, seriously inappropriate behaviour will be treated as a disciplinary offence and could result in dismissal.

Alcohol can be fuel to the fire and employer’s must be careful not to make alcoholic beverages too freely available.

A recent decision by the Fair Work Commission found in favour of an employee who was dismissed for drunken and unruly behaviour at a work Christmas party where the alcohol supply was free, unlimited and unmonitored. One of the reasons for the decision was the fact the employer providing copious amounts of alcohol was a “mitigating factor” for the staff member’s conduct and therefore the employee could not be held accountable to the degree necessary for dismissal.

Employees who wish to continue the celebration after their work Christmas party should be advised that from the time the official work event has finished they will be responsible for their own actions. When employees elect to gather together elsewhere, managers should avoid attending and should certainly avoid “shouting” to ensure the after-party is not considered a work-sponsored event.

Managers should be clearly briefed as to their responsibilities: not only should they be setting a good example by their behaviour; they should also maintain order and ensure that no employee's behaviour is getting out of hand.

This extends to employees getting home after a function where alcohol is served. Businesses should consider providing taxi or Uber fares, arranging designated drivers, or unequivocally stating an expectation that no attendees will drink and drive.

Also, employers should consider the diversity of their workforce. For example, staff could have different religious beliefs and a Christmas party may alienate some employees, while an End of Year party is more inclusive. Employees with children may find a daytime event more convenient because they can utilise their usual childcare arrangements.

If an employer decides to go all out and hire professional entertainment or allow employees to bring guests, then they better make sure they know who and what they are getting. In one case the employer was held liable for racially offensive remarks made by a visiting comedian. Employers can also be found responsible for the acts of guests at their event, even if they aren't employees.

By choosing an appropriate location, controlling the flow of alcohol and taking both the employees' and the employer's interests into consideration, a Christmas party can be a positive team builder that is enjoyed by all.

Any businesses with questions about their planned end-of-year event, should contact the Canberra Business Chamber's Workplace Relations Hotline on 1300 277 881. The Workplace Relations team can help businesses develop policies on subjects including harassment, drugs and alcohol, and equal opportunity and bullying.

Media Contact: Robyn Hendry, CEO Canberra Business Chamber 0418 462 151