

Yule Be Sorry: Avoiding Pitfalls Of Employer Liability At Holiday Events



As the festive season begins and employers prepare for holiday social events, they should be digging out their workplace policies and checking them twice.

No matter how well-intended, social events that are hosted or planned by an employer, or have some other connection to the workplace, can become a source of legal liability. These are most likely to arise as a result of either or both of the following: social host liability and the fact that company parties may be considered an extension of the workplace.

To limit the chance of an office party becoming a nightmare before Christmas, employers should revisit their policies to refresh themselves and employees on what their responsibilities are at these events.

What is Social Host Liability?

There is no one definition of social host liability but it can generally be described as a duty of care is owed by social hosts to third parties or guests.¹ In some circumstances, this will include employers who have hosted or organized a work event regardless of its location.

While employers have a duty to their employees at large, social host liability exists apart from the employment relationship. Social host liability encompasses all guests, including employees and their family members, clients, event staff and anyone else who may attend or be present at a work event. It can also include those who interact with anyone who attended the event. For example, it can include other road users if attendees drive themselves home afterwards.

Social host liability is often considered in the context of guests being served alcohol, but it includes any events that may be inherently hazardous or where it is obvious that a dangerous situation can result.

Social host liability is not absolute: an employer will not be responsible for everything that could happen at or after a party. However, employers should give careful thought to the potential dangers that exist and what reasonable steps they will take to mitigate these.

This can include steps such as limiting the amount alcohol that the employer provides

to guests by using drink tickets. Employers should also ensure that guests have a taxi chit or another safe way of getting home. Ensuring that employees and other guests are able to return home safely should be a primary concern, even if alcohol is not being directly provided by the employer.

Employers can also clearly delineate when the work-sanctioned party has concluded as employees may choose to continue the party afterwards in an environment where the employer has little or no control.

Where is the Workplace?

Employees are sometimes under the impression that workplace policies only apply to activities that happen at the jobsite or office, or wherever they normally work from.

However, an employer's obligations may extend as well to work-sanctioned offsite events and any other work-related activities. This includes an employer's overarching responsibility to provide an environment that is safe and free from bullying and harassment.

The corollary of this responsibility is that if an employer learns that something inappropriate has happened or may have happened at one of these events, it may have an obligation to investigate and take steps to address what happened. This may mean disciplining or even dismissing for cause an employee guilty of offsite or off-duty misconduct.

Although it is usually the intention of these gatherings to allow participants to relax and get to know their coworkers in a less formal context, employees should be reminded that they will still be expected to act professionally and comply with applicable workplace policies.

In preparation for a social event, it is good practice to ensure that bullying and harassment policies are drafted to explicitly apply to all workplace functions, including social events, and that all staff are reminded of this before the gathering. This includes having a clear policy against harassment, familiarizing employees with the policy, and ensuring employees understand what is expected of them both in the workplace and at social events.

If bullying and harassment policies need to be updated or revised, employers can seek legal assistance on revising those before holiday events. Further, employers should have a system in place for receiving employee complaints, as well as a system for responding to them and investigating them, in case incidents do arise from a workplace event.

Footnote

1. *Williams v Richard*, [2018 ONCA 889](#).

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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