

# GOOD TIDINGS WE BRING - BUT NO CHRISTMAS FLINGS!

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News

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We know, we know - you've heard it *all* before

.Employers: don't feed your employees copious amounts of alcohol and then think they'll competently abseil down a cliff / participate in a sheep-shearing competition / charter a yacht at the annual Christmas party.

Employees: don't get drunk and abuse your boss / snog a colleague / pat the CEO's partner on the bottom / take rude selfies and snapchat them to your colleagues.....

And yet, these things continue to happen, year after year. Both employees and employers find themselves in a lot of post-Christmas party hot water.

A quick squiz of the matters the Fair Work Commission saw this year show that employers have not just had to deal with the stereotypical 'dirt-bag' behaviour of the casual grope but have had to even deal with one punter putting his work mate in hospital with a king-hit. The side-effects of the combination of free flowing liquor and misplaced Christmas cheer may include a killer hangover, severe embarrassment upon returning to work on Monday morning or unfortunate office nick-names. However, more serious side-effects may ensue such as damage to business reputation, disciplinary action or even termination of employment.

So this is a friendly reminder that both employers and employees have certain obligations when it comes to party time.

Employers - top 5 'what you need to know'

1. Social media: no need to fear: You don't need to ban social media (it could actually be good for morale and for business). Just make sure you have a policy - and not one that just sits in the drawer. A bit of training goes a long way.

2. Workplace policies: arrows in your quiver: Did you know that as a result of a case involving Oracle there is now a 'code' that can be put in a policy to help show the Court that a business has complied with its obligations to employees in respect of liability for sexual harassment of their staff? Of course this is not going to absolve businesses of all responsibility but it's certainly useful to have as an arrow in your quiver.
3. As an employer, I'm essentially Big Brother right?: While in our view some employers have gone too far asking employees to give them their passwords so the business can monitor their personal emails and social media accounts, we do think that employers should make sure that they can monitor employees' work emails. Note that this is not actually a right without consent in NSW.
4. Responsible service of alcohol: Surely if an employee gets drunk and is inappropriate you can sack them? Well that would be right but not if an employer provided them with unlimited access to free alcohol at the Xmas party. This year this exact circumstance was found to be an unfair dismissal.
5. Encourage employees to have fun but look after each other: It is not often lawyers say this but if in doubt, don't worry about the law but rather if you foster a culture where employees are encouraged to have fun but look after each other then you should be on the right track!

#### Employees – top 5 'what you need to know'

1. Posting on social media – the common sense doctrine: Snapchats may not actually self-destruct...What if your workmate screen-shots your photo or the work server captures it – surely that borderline selfie is not worth it? Use some common sense – if you don't think your Mum should see it, you probably shouldn't send it to your workmates.
2. BYOD: Big brother is probably watching you. No matter what you think, even if your phone is your property, if you bring your own device to work, most likely your employer can see what you are doing on it.
3. Know your limit: Although mistletoe and happily tipsy renditions of Jingle Bells may be better enjoyed through champagne-coloured glasses, the key here is to know your limit. You are responsible for your alcohol intake at the work Christmas party and, to a certain extent, for your colleagues and friends around you. If you see someone circling the drain, don't hesitate to lend a helping hand or help them into a cab home. No one wants to be 'that' person who got too drunk and lost the hard-earned respect of their workmates.
4. Familiarise yourself with workplace policies: I know it sounds boring but if your employer puts on workplace behaviour training – why don't you attend it. At least you can see what the parameters are that they want you to conform to and can then make up your

mind as to whether this is a place for you to work.

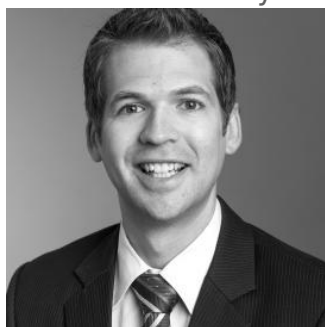
5. Know how you will get yourself home: Finally, one from experience: remember that it is almost impossible to get a taxi home from the Xmas party. Check whether public transport is available, or lock in that good friend of yours to pick you up safely.

But most importantly – have a happy, fun and safe holiday season!

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## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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