

# Employers must investigate Christmas party complaints



**Dermot Casserly** of Beauchamps Solicitors writes that employers must take steps to prevent incidents occurring at work-related social events – including the Christmas party

**M**any employers find themselves with employment problems on their hands over the Christmas period, particularly the fallout from the office Christmas party.

Under the Employment Equality Acts 1998 to 2004 anything done by an employee in the course of his employment is treated for the purposes of the Acts as done also by that person's employer whether or not it was done with the employer's knowledge or approval.

Although there is a defence available to an employer if they can prove that they took reasonably practicable steps to prevent the employee acting in such a manner.

Going to a work social event can count as an extension of



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work, and also as an employer you have a 'duty of care' for your employees.

For example, in one case before the Employment Appeals Tribunal the claimant was

subjected to tirade of verbal abuse by her manager, who had consumed a lot of alcohol

at the office Christmas party. The Tribunal held that the incident was gross misconduct and an attempt to undermine the claimant's position in the company. It held that the fact that the claimant did not co-operate with the investigation of the incident by the company was entirely understandable given the appalling nature of the abuse suffered.

## Disciplinary procedure

The Tribunal rebuked the company's decision not to invoke its own disciplinary procedure against the manager responsible for the incident. The claimant was held to have been constructively dismissed and was awarded compensation under the unfair dismissal legislation. In defending a claim it is essential for an employer to demonstrate that it took reasonable steps to prevent incidents occurring at a work social event.

For example, by making sure that the employer has policies in place on bullying and harassment and discrimination and that everyone knows what

they are and that they apply to work social events. This should be stated clearly on the policy.

In large organisations such as hospitals it is good risk management for the HR department to circulate an email or memo prior to social events to all employees reminding them that inappropriate behaviour will not be tolerated and may be treated as a disciplinary matter (particularly where the function involves all employees).

## Prevention

A copy of the employer's policies on bullying prevention and harassment and sexual harassment prevention could also be attached. Each of these policies should state that the scope of the policy includes work-related social events. Employers should also be satisfied that the chosen venue fulfils their health and safety obligations to employees.

Again in larger healthcare facilities it may also be advisable for certain managers to be briefed on a contingency plan to address trouble. Any complaints made subsequent to the Christmas party should be investigated and the employer's disciplinary procedure followed.

## ● Dermot Casserly,

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