

## Article Information

Authors: Emily Haar, Emma Avey, Isabella Conner

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## All I want for Christmas is an unproblematic Christmas party!

***While the festive season is usually full of joy for individuals, it can be quite the opposite for human resources departments. As 2025 wraps up, employers should be aware of the potential risks arising from staff functions.***

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Christmas parties can be a great way to thank employees for their contributions over the year, and to build workplace culture; however, they can also take a turn for the worse. Like the Grinch trying to stop Christmas from coming to Whoville, staff misconduct at Christmas events rids workplaces of their Christmas joy. Employers should consider the potential risks that may arise during end of year functions.

### Compliance with workplace standards at staff functions

It is important for employers to recognise that staff Christmas parties may still be considered to be part of the workplace. This means that employees may still technically be at work while they attend these functions, and their misconduct therefore falls within the scope of their employment. Such misconduct can have repercussions on employers where bullying or harassment has occurred.

In preparing for staff functions such as a Christmas party, employers should ensure that they have reviewed any relevant policies and reminded employees of the need to abide by such policies at staff functions. Employers should be planting the seed throughout the lead-up to Christmas parties that work-related social events still require the same level of appropriate work behaviour. In the event that the employer has not adequately warned employees of such behavioural expectations, this may become detrimental to an employer seeking to defend a claim later made against them. Throughout Christmas parties, it is important to ensure that the employer and their management staff still model and promote good behaviour. Standards must be clearly set and maintained.

For example, the Fair Work Commission (FWC) in *Keenan v Leighton Boral Amey NSW Pty Ltd* considered a dismissal related to an employee's conduct at a staff Christmas function, where the employee had engaged in multiple acts of sexual harassment towards female employees.<sup>[1]</sup> The FWC found that the employer had failed to exercise any real control over the service of alcohol at the Christmas function, stating that it was “*contradictory and self-defeating for an employer to require compliance with its usual standards of behaviour at a function but at the same time allow the unlimited service of free alcohol at the function*”.<sup>[2]</sup> The FWC ultimately held that the dismissal was harsh and unjust, notwithstanding that there was a valid reason for his dismissal.

### Alcohol as a factor in Christmas party downfalls

There are multiple factors which make Christmas parties a breeding ground for misconduct, but perhaps the most significant factor is alcohol consumption. Where alcohol is involved and an employee takes it too far, HR departments tend to share the employee's headache the next day. However, the responsibility to prevent this Christmas party hangover is shared between employees and employers. This was reiterated by the FWC in *Sione Vai v ALDI Stores (A Limited Partnership)*:

*“I am satisfied that any employer who decides to hold a Christmas party has an obligation to take reasonable steps to ensure appropriate standards of behaviour are maintained, and the safety of those attending is protected. However, I am also satisfied that any employee attending has a responsibility to act within reasonable bounds”.*<sup>[3]</sup>

While employers cannot always manage the alcohol intake of employees at staff functions, employers can always take

action to implement measures for the responsible serving and consumption of alcohol. Such preventative measures can ultimately be decisive in defending a claim relating to poor behaviour of an employee while under the influence of alcohol at a Christmas function.

An employer should also consider whether it is necessary, or appropriate to serve alcohol at a Christmas party in the first place.

### **Work health and safety considerations**

Where Christmas parties are seen as workplace functions, they fall within the scope of an employer's duty of care under work health and safety legislation. Christmas parties are inherently risky for employers due to their limited scope of control over staff behaviour, posing hazards to both the physical and psychosocial safety of employees.

An example of a workplace safety issue arising from a Christmas party was considered in *Hattenfels v Richards Panel Pty Ltd*, where the Personal Injury Commission of New South Wales (**NSWPIC**) contemplated whether an injury occurred in the course of employment. The employee had attended a staff Christmas party, where he was provided with a meal alongside alcoholic beverages.<sup>[4]</sup> Following the conclusion of the function, staff members attended the residence of the owner of the company they were employed by to consume further drinks. Noticing that the residence backed onto a golf course, a group of employees decided to travel on a golf cart around the course to spot kangaroos. However, an employee seated at the back of the golf cart fell and sustained serious head injuries. In finding that the continuation of the social activities from the Christmas party was seamless, the NSWPIC held that the employee's injury arose in the course of employment.<sup>[5]</sup>

This case provides a firm reminder of the importance to stipulate the start and end times of a work-related function, and to advise managers to not encourage the party to "kick-on". This includes warning managers or anyone else with a company credit card to not put that card on a tab at the Christmas party. Expressly or impliedly encouraging kicking-on has been found to cause the "continuation" of staff functions, opening employers up to liability for any injury or misconduct occurring in the continuing party. Consequently, it is important for employers to set an end time for Christmas parties, and to strictly stick to that end time.

### **Key considerations for employers this festive season**

- In the lead up to Christmas parties, be sure to remind employees of the expectation to comply with relevant workplace policies and codes of conduct. It is important to ensure that employees have access to these documents, and where appropriate, can receive training to comply with these policies.
- Employers should set specific start and end times for Christmas parties and should arrange or help coordinate safe transportation options for employees to get home safely after the party.
- Should an employer elect to offer alcohol, during the Christmas party itself, the employer should communicate with the venue to ensure there is sufficient food, water, and non-alcoholic beverage options. The employer should coordinate with the venue in order to facilitate the responsible service of alcohol.

Planning your end of year event, or managing the fallout afterwards? Our National Employment Relations team can assist.

<sup>[1]</sup> *Keenan v Leighton Boral Amey NSW Pty Ltd* [2015] FWC 3156.

<sup>[2]</sup> *Ibid* [133].

<sup>[3]</sup> *Sione Vai v ALDI Stores (A Limited Partnership)* [2018] FWC 4118 at [105].

<sup>[4]</sup> *Hattenfels v Richards Panel Pty Ltd* [2022] NSWPIC 213.

<sup>[5]</sup> *Ibid* [100], [107].