

HR AWARDS
2017

EXCLUSIVE
Winners revealed

HRD

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RISING STARS

Tomorrow's HR leaders



**HUNTING A
RARE BREED**

J.P. Morgan's search
for STEM talent

**ADAPTIVE
EXPERTISE**

The key to leading
in VUCA times?

**TECH'S PRESSING
CHALLENGE**

Why D&I initiatives
are failing



Experts make things simple

It's that time of year again...

With the silly season once again nearly here, **Joe Murphy** has some timely advice for employers

AS WE move towards the end of every year, we write about the 'silly season' and warn businesses that they need to be vigilant in their approach to work functions and work-related events. Despite these yearly warnings, every year without failure we receive a range of calls about various incidents that have arisen at work functions and Christmas parties across the country.

The regular types of risks that present include sexual harassment, generally offensive behaviour, personal injuries, and even assault. The liabilities extend to huge investments of time in respect of investigations, workplace cultural impacts, financial compensation and legal costs.

At the centre of the issue is the need for people to recognise that work functions, Christmas parties and so forth are an extension of their workplace and the obligations they owe to their fellow employees to behave properly. If someone crosses the line from appropriate behaviour to inappropriate behaviour then they ought to properly expect that they'll be held to account for it. However, where an employer has not properly prepared itself and its staff, disciplinary action following even the most abhorrent behaviour can prove hard to enforce.

In short, your checklist should include:

- Ensuring your policies relating to workplace behaviour are up to date

- Redistributing your policies (a link in an email might suffice)
- Ensuring staff have read and understand what the policies stand for and what is appropriate behaviour
- Ensuring the rules for work-related

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events are clearly communicated and in writing (including start and finish times, appropriate consumption of alcohol, responsible service of alcohol, provision of food and non-alcoholic beverages to accompany alcohol consumption, arrangements for travel home from the events, appropriate reminders about drinking and driving, and appropriate gifts for 'secret Santa' type events!).

- Ensure that employees understand that any 'after party' or flow-on event is not endorsed or otherwise supported by the business but that staff must be conscious

that the way they behave in relation to fellow members of staff can impact on their employment.

The best case that most recently demonstrates why it is important to implement the measures recommended in this article is the matter of *Keenan v Leighton Boral Amey Joint Venture*. While the case is a few years old, it reminds us that even when an employee swears at senior managers, sexually harasses fellow employees and becomes uncontrollably inebriated, if you have not put these measures in place you will likely find it hard to implement and subsequently defend disciplinary action (such as dismissal), and could expose the business to legal liability for the unlawful conduct of employees such as sexual harassment or other protections provided for under discrimination and workplace laws.

It is understandable that employers do not want to be seen to be a 'wet blanket' before the party has even started, but it is vital that you do take these steps to place your business in the best position to defend itself against

claims arising from circumstances out of its control and to be able to implement remedial action and disciplinary measures when warranted and appropriate. **FRD**

Joe Murphy is a director at Australian Business Lawyers & Advisors (ABLA). Serving business and only business, this legal and advisory firm is trusted by the Australian Chamber of Commerce and Industry and is the leading voice for industry in the Fair Work Commission. Call Joe on 1300 565 846 or joe.murphy@ablawyers.com.au if you have any questions about matters raised in this article.

