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Avoiding a legal hangover after the work Christmas party

By Scott Wade, Solicitor

It is around this time of the year people may start hearing rumours that a workplace may not be able to host a Christmas party where alcohol is served 'for OSH reasons'.

Occupational Safety and Health (**OSH**) is often unfairly cited as the reason that a workplace cannot hold a Christmas party or participate in other similar activities. Any alcohol consumption carries inherent risks, but OSH laws do not operate to outright prohibit service of alcohol at workplace functions and events. The principles within the OSH legislative regime simply require that the risks are managed.

Courts and tribunals have made it clear that an official employer Christmas party will constitute a work function, and that the employer may be liable for events that occur during it. Therefore, OSH duties continue to apply during the office Christmas party. However this does not necessarily mean the party cannot go ahead. Instead, alcohol consumption at the Christmas party should be identified as a hazard, and then proportionate, reasonably practicable controls should be put in place.

Tips for ensuring a safer Christmas party include:

- Ensure there is a policy that addresses the responsible consumption of alcohol at workplace facilitated functions and events, and that the policy is understood by staff. The policy should address behavioural expectations at events and functions;
- Select an appropriate venue so that the venue itself does not introduce any additional hazards (for example, consider whether staff are likely to be exposed to intoxicated members of the public; or whether the venue contains fall hazards that cannot be sufficiently controlled);
- Ensure the responsible service of alcohol by limiting the number of drinks per person and ceasing to serve people who are visibly intoxicated (the use of drink vouchers or a similar system may assist);

While it is universally recognised that any alcohol consumption carries inherent risks, OSH laws do not operate to outright prohibit its service at workplace functions and events.

- Allocate of one or more designated staff who will remain sober to supervise behaviour at the event and manage any issues that arise;
- Set clear start and finish times;
- Provide plenty of food and non-alcoholic beverages including water, and encourage their consumption; and
- Actively discourage intoxicated staff from driving home after the party. This may be assisted by providing alternative transport options such as ride sharing or taxis.

So, the Christmas party doesn't need to be cancelled for OSH reasons after all, as long as the employer considers and controls the hazards in a proportionate and practicable way.

The information contained in this article should not be relied upon without obtaining further detailed legal advice in the circumstances of each case. For further information and advice please contact Scott Wade at swade@mcleods.com.au.

