



Labour and Employment

Comfort, Joy and Peace of Mind: Tips on Reducing Employer Liability During Holiday Parties

Hosting a holiday party for your employees is a great way to thank them for their hard work throughout the year. However, as an employer, you want to limit your exposure to potential liability while ensuring the safety and well being of your employees, guests and the general public. We have put together a “holiday checklist” that all employers are advised to follow when planning your next holiday party. What you choose to do will depend upon the type of party that you are hosting and can include any or all of the suggestions below.

THE INVITATION

You will want to limit or eliminate any liability for violence, harassment and discrimination. Generally speaking, the company may be liable for behaviour that occurs outside working hours at employer-sponsored social events. Therefore, consider the following:

- When planning your party, be respectful of your employees’ religious beliefs, ethnic and sexual diversity. Consider creating a holiday planning committee to plan your party: one that will make sure the date, menu, activities and theme are reflective and inclusive of all employees
- Allow employees to opt out of your holiday party without consequence or negative connotation
- Consider inviting your employees’ spouse and/or family to accommodate those who may be unable to leave young children at home. This can also reduce the risk of harassment or offensive behaviour
- Make sure the venue is accessible to those attending your party
- Ensure your violence and harassment policy is up-to-date and is clearly communicated to all employees prior to the party
- Remind managers of company policy and expectations. The company should expect them to set an example of professionalism at the holiday party

- Remind employees that the holiday party is a workplace function, that the policy extends to the party, and that they are expected to behave in a way that is not harassing, violent, discriminatory, intimidating or otherwise inappropriate
- Hold an alcohol-free holiday party

COCKTAILS ANYONE?

A sure way of limiting liability during your holiday party is to consider the following if you plan on serving alcohol:

- Remind employees before the event about the risks of over-drinking and drinking and driving
- Do not provide free and open access to alcohol. Use certified and/or experienced bartenders who are independently insured
- Restrict the number of drinks an employee can have by issuing drink tickets. If an open bar is provided, limit the time that the bar is “open”
- Charge for alcoholic drinks, and provide non-alcoholic drinks as an option
- Hold a morning or afternoon party where alcohol is served
- Avoid serving alcohol if your party includes physical activities, or serve the alcohol after the physical activity is completed

Heenan Blaikie

Heenan Blaikie LLP • Lawyers | Patent and Trade-mark Agents
heenanblaikie.com

- Do not serve alcoholic beverages to under-aged employees or employees who are already visibly intoxicated
- Have food available throughout the party to slow the pace of drinking
- Appoint managers to casually monitor guests' alcohol intake and to watch and caution any who appear to be intoxicated
- Stop serving alcoholic beverages at least an hour before the party is over
- Discourage "after parties" by avoiding drinking with employees at other sites after the party has ended
- Encourage employees to leave their vehicles at home and to take advantage of the alternative transportation you are providing, especially if they will be drinking at the party. Make reminder announcements during the party about the alternative arrangements
- However, if an inebriated individual insists on driving, try to detain them until the police can be called or, if that is not possible, call the police immediately upon the individual leaving

THE AFTER-PARTY

As an employer, you have a greater duty to protect intoxicated individuals and the public, therefore, think about how your employees will get home safely.

- Provide alternative transportation for employees at the employer's expense to and from the party – for example, taxi cabs, taxi chits or a shuttle bus
- Consider holding the party at a hotel, where guests may be able to stay the night. Arrange to have rooms available for employees who are unable to get home
- If you provide alternative transportation, make arrangements well in advance and clearly communicate these in writing to all potential attendees

If you have specific questions regarding potential liability arising from a specific holiday party or activity you are planning, you are invited to contact one of our experienced lawyers in the Labour and Employment Group.

PRESENTS!!!

Many employers like to treat their employees to holiday gifts in recognition for their hard work. When giving gifts, it is important to keep in mind the tax implications, if any:

- In short, all cash or near-cash gifts (*i.e.*, a gift certificate) or performance-related rewards (*i.e.*, sales targets) from the employer to the employee are *taxable*
- All non-cash gifts and awards to an employee are *not taxable* if the total combined value is less than C\$500 a year (*i.e.*, a basket of cheese and chocolates)
- Any item of minimal value is *not taxable* (*i.e.*, employer promotional items, t-shirt, coffee mug, trophy, plaque)
- Any taxable reward or gift must be included in the taxable income of the employee. It is the employer's responsibility for making the necessary employment income deductions

ABOUT HEENAN BLAIKIE

Heenan Blaikie is recognized as one of Canada's leading law firms. We focus on six practice areas: business law, labour and employment, taxation, litigation, intellectual property and entertainment law. We deliver comprehensive legal advice and innovative business solutions to clients across Canada and abroad from our nine offices in Alberta, British Columbia, Ontario and Quebec, and our Paris office.

Today, the firm is over 525 lawyers and professionals strong and still growing. We strive to become partners in our clients' businesses, ensuring that our legal advice addresses their preoccupations and priorities. We seek to constantly adjust the scope of our services to better serve our clients' legal needs.

Our clients range in size and sophistication from start-ups to the largest public companies, as well as health care and social services institutions, schools and universities, and numerous government entities. We also represent international clients seeking to protect and expand their interests in Canada.

The articles and comments contained in *FI@sh Bulletin* provide general information only. They should not be regarded or relied upon as legal advice or opinions.

© 2013, Heenan Blaikie LLP.

heenanblaikie.com