



MISTLETOE DOES NOT EQUAL CONSENT

A GUIDE FOR EMPLOYERS IN PREVENTING & ADDRESSING INCIDENTS OF SEXUAL HARRASSMENT AT THE WORK CHRISTMAS PARTY

Disturbingly, each year from 1 December, the Working Women's Centre SA expects to hear countless stories from women complaining of incidents of sexual harassment occurring at their staff Christmas parties.

Every year we prepare ourselves to assist women who have been the victims of unwanted and unwelcome sexual behaviours at the workplace Christmas parties ranging from offensive and vulgar remarks to violent sexual assaults.

Of course, sexual harassment does not just happen at Christmas parties. Sexual harassment in the workplace is at epidemic levels within Australian workplaces. In 2018, the Australian Human Rights Commission released its workplace sexual harassment survey and found that 1 in 3 workers had been sexually harassed at work in the previous five years.[1] You only have to skim the surface of #metoo stories to know that the workplace can be a very unsafe place for women.

Having identified this trend, we have put together this guide to assist employers in planning a safe and truly celebratory event.

SO YOU ARE PLANNING THE WORK CHRISTMAS PARTY

When planning the Christmas party, employers should not lose sight of their overarching primary duty of care to ensure the health and safety of all workers.[2] Employers are required to take their legal obligations to their workers as seriously as on any other day of the year.

The Christmas party might be off-site, and if you're a half-decent party planner, the party might not even feel like work. Don't let the good vibes lull you into a false sense of security, all employers have a legal obligation to take all reasonable steps to minimize the risk of sexual harassment,[3] and this obligation extends to workplace Christmas parties. In some instances, an employer's obligations can extend to the 'after-party' too.

[1] <https://www.humanrights.gov.au/our-work/sex-discrimination/publications/everyones-business-fourth-national-survey-sexual>.

[2] Section 19 Work Health and Safety Act 2012.

[3] Section 106 Sex Discrimination Act 1984.





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HERE ARE SOME PRACTICAL STEPS AN EMPLOYER CAN DO TO ENSURE THAT THE CHRISTMAS PARTY IS SAFE AND FUN FOR EVERYONE:

1. Remind all employees of your sexual harassment policies. If you don't have a sexual harassment policy, get one. Sexual harassment is a serious issue, and it can have catastrophic consequences for victims and the workplace. It's an issue that deserves a well thought out, appropriate, and effective policy.

3. Ensure that there are senior, trusted and sober members of staff at the Christmas party to ensure that any anti-social and inappropriate behaviour is stopped and there is a sober person of whom a disclosure/complaint can be made to. This person should be someone who understands the gendered nature of sexual harassment and a person with authority within the workplace.

5. If you are providing alcohol, have a cut off time for alcohol and stick to it. There are case examples of employers who have been held to be vicariously liable for the actions of their employees, where the employer has fostered an environment which allowed the misconduct to occur.

2. Set behavioural expectations early. Let employees know in advance that any form of sexual harassment or abuse will not be tolerated and that all employees will be expected to follow normal workplace behavioural standards.

4. Let your staff know that they should feel comfortable calling out anti-social and inappropriate behaviour in a safe manner. Let your staff know that if a woman discloses any sexual harassment that she will be listened to and the complaint will be investigated and actioned. All workers must understand that there will be proportional disciplinary action for any anti-social and inappropriate behaviour.

6. Ensure that your workers can get home safely by holding the Christmas party in a central location with private and public transport options. If there is alcohol available at the party, consider providing all workers with a cab charge.

If you would like to learn more, have an issue with sexual harassment in your workplace or are generally looking for training on sexual harassment please contact the Working Women's Centre SA Inc on 08 8410 6499 or alternatively email us at reception@wwc.org.au.

*We recognize that men are also victims of sexual harassment. We have chosen to use gendered language due to the overwhelming statistical evidence that women are more likely to be the victims of sexual harassment and men the perpetrators.

