

By Shelley Crofts [Wednesday, 04 December 2013](#)

The Lawyer's Guide To Surviving Christmas

Christmas: it's full of cheer, or full of potential lawsuits, depending on who you are. Shelley Crofts from Burges Salmon gives her guide to negotiating the festive minefield.



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1. Winter weather woes

In great British tradition, forecasters are predicting the harshest winter for over 60 years. Make sure you're ready for the first flakes of snow by having a clear policy setting out how your business will deal with attendance at work during extreme weather conditions.

Include details of any alternative arrangements you can put in place, such as permitting homeworking or flexible working. Also make clear payment arrangements for employees who don't make it to work. For example, should it be taken as unpaid leave? Or should missed time be made up? If you have a clear policy and share it with your workforce in advance, you might find this has a remarkable effect on attendance levels.

2. The Christmas gift

In the spirit of giving, it might be nice to show your appreciation for employees' efforts over the year – but make sure it doesn't turn into a gift for the taxman instead.

Where a gift is of a 'trivial' nature and is concerned with the employee's welfare, the employee will not have to account for tax in connection with it. There is no monetary limit on what is considered 'trivial', but HMRC guidance gives examples such as flowers, chocolates or a turkey. That's right: a turkey.

However, even if the gift is 'trivial', if it is cash or a gift that can be easily converted into cash (which is likely to encompass non-cash gift vouchers) then it should be taxed as earnings through your payroll.

3. Christmas holidays

Make sure you adopt a fair system for deciding which employees can take annual leave over the Christmas period. Ask people to submit requests well in advance so you can plan accordingly – and you never know, there might be some who would welcome the excuse to avoid the trip to the in-laws. Remember, together with schools, many nurseries and child minders are closed over the Christmas period so you will need to allow flexibility for those with childcare issues.

4. Shut down over Christmas

If your business shuts down over Christmas, you'll probably want your employees to use their holiday allowance to cover this period. Ideally, this should be set out in their contracts of employment or at the very least you should have warned them in advance so they can factor it into their holiday plans. However, if you wish to impose the use of holiday, you may be able to do this – providing you give the employee twice as much notice as the period you require them to take off. Although, you will need to check your contracts don't say otherwise.

5. Working through Christmas

On the flipside, the nature of your business might be such that you need some, if not all, employees to work over Christmas. Where an employee wishes to take time off for religious reasons (whether that is over Christmas or any other religious festival), if you cannot accommodate that request, you should ensure there is a genuine business reason for the refusal. Having a clear policy in place, dealing with the timing of requests and how these will be processed, will often help support your position.

6. A ruined christmas

He's talked about nothing else for the last three months, but Alan's plans to tear down the slopes were ruined when he broke his leg on the first day of his holiday. To add insult to injury, he spent the rest of his trip laid up in plaster. When he comes back to work, he provides you with a medical certificate covering his week's leave and asks if he can recoup any of his holiday. Can he?

In this case, he probably can. More generally, it depends how serious the illness was. If the employee was so ill they would not otherwise have been able to come into work then, yes, they might have a claim to reschedule their leave. Though you probably don't want to advertise this in your absence policy, it is worth thinking about how you will address such issues and deciding on managers' guidance so you can apply it consistently where such cases arise.

7. Christmas party guestlist

Have you considered who to invite? No, I don't mean the disarmingly attractive temp in marketing (or, at least, not just them...). Have a think about whether your guest list includes absent employees, such as those on maternity leave, and whether it is appropriate to extend the invitation to any agency workers. In order to avoid any ill-feeling, if you do extend out the invitation, ensure you adopt a consistent approach. You should also avoid putting any pressure on employees to attend. While there's an outside chance they might be Scrooge reincarnate, they may have family reasons which prevent them from attending or they may not wish to celebrate Christmas on religious grounds.

8. (almost inevitable) Christmas party misconduct

It's a task that makes even the most hardened HR manager cringe. However, in the run up to your Christmas party, remind managers of the standards of behaviour you expect from them and their teams - with particular focus on moderate alcohol consumption and the company's policy with regards to harassment and equal opportunities.

If things do get a bit out of hand consider whether the incident is sufficient to warrant disciplinary action. Don't jump to conclusions or make any rash decisions based on office gossip. If a serious incident is reported, carry out a full investigation suspending the alleged perpetrator if that is reasonable. Consider whether disciplinary action is necessary in the circumstances and, above all, ensure you apply any sanctions consistently against offenders unless there are valid reasons not to.

9. The morning after the night before

If you decide to hold your office party mid-week, be realistic as to what you can expect from employees the next day. A few late starts might be tolerated, but a total no-show may require disciplinary action.

10. Stockpile the alka-seltzer

Because you vowed you'd never feel that bad again.

- *Shelley Crofts is an associate at UK law firm Burges Salmon*

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