

Lawyers come to the party

MILES KEMP

IT'S the time to let your hair down after another long year of deadlines, budgets and endless office meetings.

But law firm Duncan Basheer Hannon has issued a list of behaviour warnings for workers attending this year's office Christmas party.

Titled "What could possibly go wrong?" the guide has been issued by senior partner Pat-

rick Boylen, who said changes to laws in South Australia this year had made the festive season knees-up more risky for workers.

"Not to be a killjoy, but it is a case of be alert, not alarmed," Mr Boylen said.

"People can come up with a myriad of ways to push the boundaries at a Christmas function, especially when alcohol is involved.

"Many of these ways may

be highly amusing but they could end up being no laughing matter."

One legal change that could affect inebriated people making their way home from the Christmas party, means councils will not pay for "trip and fall accidents" on footpaths, Mr Boylen said.

"You are no longer covered due to changes to the Civil Liability Act 1936. This legislation gives councils full im-

munity from these trip and fall accidents on footpaths arising from their omission or failure to properly maintain such footpaths," he said.

Mr Boylen said when people understood the problems they could get in to they may want to modify their behaviour significantly.

For example, falling over and being injured because a worker is under the influence of alcohol is not covered unless

death or serious and permanent injury results.

Also, a recent Federal Court decision means that even if the party was held outside work at a licensed venue, sexual harassment laws still applied.

"Having completed the research for this list, I am inclined to think it may be simply too dangerous to hold any form of Christmas party," Mr Boylen said.

Mr Boylen said the law was

struggling to keep up with the multitude of legal matters that could arise from Christmas party antics, including issues like photobombing and selfie photos if they showed the company in a bad light.

"Employees need to be reminded that even at a Christmas party they are ambassadors of their company/brand, in which case try and avoid 'career suicide via social media'," he said.



TAKE CARE: Staff at Duncan Basheer Hannon say work Christmas parties carry a risk. Picture: DYLAN COKER

THE PROBLEMS

1. What happens if I am dancing on the boardroom table at the Christmas party in my stiletto heels and I fall off? Am I covered by WorkCover?

A social function attended at the request or direction of the employer forms part of your employment so the preliminary answer is yes. However, if the disability is wholly or predominantly attributable to the influence of alcohol, then the disability is not covered unless death or serious and permanent injury results.

2. If I take an inappropriate selfie and post it on Facebook, am I in legal trouble?

You may be in breach of your company/office policy which could result in termination of employment.

3. If my boss photobombs my selfie, can I sue him/her?

Possibly, you can sue for "Photobomb Emotional Distress", following a recent trend in Los Angeles where a number of cases have been lodged against "photobombers".

4. If I fall over on the footpath outside the Christmas party, am I covered?

You are no longer covered due to changes to the Civil Liability Act 1936.

5. If I wear a short dress to the party and a male colleague says I look "hot", can I commence legal action for sexual harassment?

Although work parties may be held out of the office, sexual harassment laws still apply. In a

recent decision the Federal Court found that a pub where the alleged sexual harassment occurred fell within the statutory definition of "workplace". Sexual harassment compensation generally ranges from \$10,000 to \$20,000 however one of the highest ever award was granting to a female employee for an Adelaide building company for \$466,000.

6. What if I have a few drinks and start hitting up on a colleague?

Bullying and harassment laws still apply, even at the Christmas party. Sexual harassment is any unwelcome sexual advance or request of sexual favours or unwelcome conduct of a sexual nature. Bullying may include behaviour that frightens, humiliates, belittles or teases. Employers have an obligation to deal with any of these issues as soon as they become aware of it. Failure to properly deal with these matters can result in a report to SafeWork SA and/or a complaint to the Equal Opportunity Commission.

7. What if I end up in a romantic fight over a colleague and throw the first punch?

This could end with an assault charge that can carry penalties of up to five years imprisonment and, if convicted, will remain on your record for life.

8. Can I call an Uber taxi to take me home?

Yes but you may be involved in a breach of the law. The use of Uber taxis has not been approved in South Australia. This new trend of cheaper transport launched by Port Adelaide's captain Travis Boak and Crows captain Nathan Van Berlo is putting the Passenger Transport regulations to the test. However Uber maintains the company is fully compliant with South Australian laws. Nevertheless,

State Treasurer Tom Koutsantonis advises passengers they are using the unaccredited app at their own risk.

9. What if I scan my buttocks on the photocopier for a laugh?

Unfortunately the trend of photocopying and scanning one's buttocks is still hugely popular. However, it must be remembered that the scanning light used in standard photocopiers reaches 170 degrees celcius and with most machines unable to withstand a weight of more than 70 kilograms, you will not only be seriously injured (and humiliated) but you may not be covered by Work Cover.

10. What if my Kris Kringle gift is inappropriate?

In 1997 the case of Dunn-Dyer v ANZ Banking Group Pty Ltd discussed the possibility of sexual harassment arising from giving colleagues inappropriate Kris Kringle gifts. Although the sexual harassment and sexual discrimination claims did not succeed the case went on to discuss discrimination and sexualisation of women in the workplace.

11. Can I sue my boss for the hangover?

At work functions such as Christmas parties the employer must abide by the rules of being a responsible host, especially if they are providing alcohol or a bar tab. Although responsibilities are imposed on employees as well, employers may be liable for negligence and injury when supplying alcohol at company events.



VEHICLE SAFETY RECALL

Toyota Motor Corporation Australia Ltd. A.B.N. 64 009 686 097 is recalling the following vehicles for repair of the condition described below.

VEHICLES AFFECTED
Toyota Kluger GSU50 and GSU55 models produced between 2nd May 2014 and 3rd June 2014 and within the following VIN ranges are involved.

WMI	VDS	CD	VIS	
			FROM	TO
5TD	ZK3FH	#	0S024922	0S028314
	YK3FH		0S025566	0S028177
	BK3FH		0S044228	0S052945
	DK3FH		0S044957	0S051104

NOTE: 1). Not all vehicles tabled in the above VIS range were sold in Australia.
2). Hash (#) = check digit (alpha or numeric)

DESCRIPTION OF PROBLEM
The end cap on the right-hand fuel delivery pipe in the engine may have been insufficiently welded. In this condition, fuel could leak from the fuel delivery pipe.

ACTION REQUIRED
Owners of affected vehicles will be contacted by mail at their last known address inviting them to make an appointment with their preferred Toyota Dealer as soon as possible to arrange rectification.

Naturally, Toyota will conduct this rectification **free of charge**. If you believe you have an affected vehicle and do not receive a letter from Toyota, please contact your preferred Toyota Dealer to arrange an appointment.

FURTHER INFORMATION
Further information can be obtained from any Toyota Dealer or the Toyota Customer Support Line on 1800 643 242 between 8:00am and 4:30pm Monday to Friday (AEDT).

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