



## Watch Christmas party tweets and posts or risk legal problems, employers warned

Businesses must be vigilant in monitoring employee activity on social media during Christmas parties to avoid legal entanglements that could result in damages, lawsuits, and a negative perception with their brand, a legal expert has warned.

PCS managing principal Joydeep Hor says businesses must watch for what their staff are saying online and posting about other employees – a warning prompted by instances that have occurred in the past few years where employees have harassed or insulted their employers, or other staff, on Twitter or Facebook.

Hor says the legal ramifications of such a post triggering a lawsuit can be huge for an SME.

"Organisations have been getting better at managing their risk, but what we're highlighting here is the real challenge consistent with what we've been seeing in certain workplaces is that things happen on the fringe of the workplace."

"That is, when a group of employees might go on after a work event and go out. And combining that with social media creates situations where incidents may happen."

Hor refers to situations where employees might be at a bar, and then post photos or other comments on social media sites that could be misconstrued as inappropriate, or even harassment.

This highlights the controversial topic of an employer's liability extending outside of the workplace where employees are still meeting under the label of "workplace activity" – for instance, working from home, or after-hours drinks.

"When that happens, the risk is that you have a far broader audience in relation to these matters. At some stage, this could be the subject of an investigation or an inquiry and the capacity for damage control is far less."

In a situation where an incident occurs without anything being posted to social media sites, Hor says the damage control is easy to contain. However, where it is posted to Twitter or Facebook, the audience grows, and so does a company's liability.

He references former NRL player Joel Monaghan, who was pressured to resign after inappropriate pictures were posted after a team celebration, and also pointing to swimmer Stephanie Rice who lost a sponsorship agreement after making a derogatory tweet towards homosexuals.

"There can be someone who takes offense to that sort of conduct being posted. It could be raunchy behaviour, or something that people believe is funny."

"But I can assure most employers won't think it's so funny when that photo or post is a critical piece of evidence in a sexual harassment case."

Ultimately, Hor says, you can't do anything to stop this behaviour from occurring. But you can ensure your staff know exactly where the company's policy lies, and what you will or will not tolerate.

"The most important thing is that businesses need to be proactive about communicating to employees prior to these events occurring. You need to ensure their behaviour needs to be in line with company standards, and that net is wider than the Christmas function itself."

"It's about the interactions they have with co-workers and social media outside of the function, and in the lead up to it, that can be troublesome."

Hor says you need to ensure that you don't dampen the spirit of celebration, but also be vigilant that you limit your liability.

"At the end of the day, you can't stop things from occurring. But you need to minimise the liability by showing you've taken all reasonable steps through education."

"Additionally, this time of the year is great for employers to check what type of social media policy they have in place. We're warning our clients about that right now, checking off what their policy is, and all of that is very important this time of year."

<http://www.smartcompany.com.au/legal/20111201-watch-christmas-party-tweets-and-posts-or-risk-legal-problems-employers-warned.html>