



Navigator

December 2010

www.employment-law.uk.com



Christmas party dying out

Nearly four in 10 businesses in the UK are planning to scrap the office Christmas party this year, according to our latest research.

Of those, half say it is because they can no longer afford it while one in six said they thought it would be insensitive to hold a Christmas party following redundancies.

Staff in the North West will be hardest hit with 47 per cent of businesses saying that they don't plan to hold or contribute to a party while businesses in the South East were the most generous with almost three quarters planning some festivities, and 60% planning to spend the same as last year.

But cash wasn't the only reason holding businesses back. One in 10 businesses said that their staff didn't want to go out together, while similar numbers were concerned about staff behaviour or the possibility of offending staff from ethnic minorities.

Head of consultancy, Peter Mooney, said: *"For managers and workers alike, it seems the Christmas party is something they loathe rather than love. For bosses, the managerial hangover outweighs the fun had at the party."*

"At this rate, with the impulse to cancel coming from staff as well as managers, we may quickly see the traditional office party become a thing of the past."

A Winter's Tale

Although the snow lay on the ground,
Deep and crisp with frost.
It did not cool our villain's heart,
Quite dear it would him cost!

You see, he wooed a girl so fine,
Long limbed, with eyes of blue.
But she did not reciprocate
And warned that she would sue!

Did this not stop him? Oh dear no.
His ardour did persist.
He chased her and he pursued her,
Despite her cries, "desist!"

So to her boss she did complain.
"A grievance," she'd lament.
"Surely it's not," the boss replied.
"Oh yes, it's harassment!"

On Christmas party night, it came.
The crux, the final straw!
Infatuation, lust and booze,
Combined... a fatal flaw!

He spied her in her party dress,
The neckline it did plunge!
The gorgeous sight, it was enough,
To make his fateful lunge!

She screamed, "That's it! You've done it now!"
He was then ejected.
A miserable Christmas he spent,
Thoroughly dejected.

You've guessed the rest. He was dismissed.
No more will he pester
The object of his desire as,
He so clearly stressed her!

He also had to pay her cash,
As also did her boss!
A lesson learned by both, it's hoped,
As they bemoan their loss!

The girl divine, with eyes so blue?
Now needs to work no more.
I saw her just the other day.
I'm meeting her at four!

Take heed the warnings from this tale!
Advice from ELAS take.
Enjoy your Christmas and New Year.
And do not make mistake!



Contents

	Page
Direct Payments Scheme	2
Extreme Weather	2
Royal Wedding	3
Employersafe	3
Compensation Culture	4
Training Services	4
Health and Safety round up	5
Q&A	6

Employment Law

Direct Payments scheme users falling foul of employment law

But the scheme, which was designed to give users the freedom to manage their own care budget, is seeing many fall foul of the ever-changing employment law legislation.

"Without proper advice, becoming an employer through receiving direct payments could seriously limit people's independence, rather than promote it."

Care users are increasingly ending up in employment tribunals because they are unaware of their legal responsibilities as an employer under the Department of Health's Direct Payment scheme.

More than 46,000 care users in the UK are now responsible for appointing and paying their own carers as part of the Department of Health's Direct Payments scheme, rather than take council-managed care.

Peter Mooney, head of consultancy, said: *"Although the Direct Payments scheme gives people the freedom to manage their own care, it also gives them a huge amount of responsibility too."*

"We have seen a sharp rise in the number of carers taking out tribunals against their employers, many of whom quickly find themselves tied up in red tape and ill-equipped to untangle the mess."

Among the problems encountered, we have come across care users being sued for unfair dismissal largely because they have not followed procedures correctly, and being challenged by carers on points of law - putting the users in difficult managerial positions.

To help, ELAS has created a specific package for direct payments users. For more information about ELAS's services, contact 08450 50 40 60 or email care@employment-law.uk.com

Bosses rue past generosity as snow causes havoc - again!



Thousands of businesses could find their past generosity comes back to haunt them this winter as the country prepares for another season of snow and disruption.

Many bosses across the country took a lenient view on staff who couldn't make it into the office after what was billed as the worst snow for 50 years.

Now, those same bosses may find they rue their past generosity as staff use it as a basis to claim paid leave in extreme weather.

Head of consultancy, Peter Mooney, said: *"The law is very simple when it comes to the weather: if you don't turn up to work and you're not ill, you have no right to be paid."*

"Earlier this year, most employers took a balanced view and gave staff who had made a genuine attempt to make it into work time off on full pay."

"But in doing so, they have set a precedent which they will now need to follow this year - unless they amend their contracts to incorporate a new and more stringent bad weather policy."

January's disruptive weather was seen by most as a once-in-a-generation event, but last month, businesses in many parts of the UK were facing up to the worst November snow in 17 years.

If more snow arrives during the winter, staff who can prove they tried everything possible to get to work, and who can highlight a lenient approach in the past, could bring a case through the courts for unlawful deduction of wages.

For help and advice about dealing with extreme weather conditions, call ELAS on 08450 50 40 60.

Software

Employersafe



Our pioneering intelligent personnel software, Employersafe, has been a huge success since its launch in 2006 - with many clients insisting they could not run their businesses safely without it.

Now, as we enter a New Year, those businesses will be able to enjoy the advantages of a new look and a number of powerful new functions as we launch Employersafe Version 7.

The same clear interface remains, but we believe Version 7 is easier to navigate, has a fresh new image, and has a number of small but valuable new additions.

Thanks to feedback from one user, Pakawaste, we have added a stationery pack icon on the homepage, while we have also updated the intuitive traffic light system so that - instead of simply seeing a green, amber or red traffic light on screen, the whole page changes colour to warn users of any potential problems.

As always, we'd be very interested to hear your feedback on the new software and - who knows? - your comments could form the basis of our next update.

Version 7 will be available through automatic updates from early February, 2011.

Employment Law



Royal Wedding holiday 'just a stunt' without new law

Love may be in the air for Prince William and his fiancée, Kate Middleton, but their nuptials could leave employers with a nasty headache long before the champagne corks fly.

For - as things stand - they are the ones who need to decide whether to give staff an extra day off to celebrate the Royal Wedding after the Government stalled on passing the public holiday into law.

That's because, despite the Prime Minister's announcement that April 29th, 2011, will be a public holiday, businesses will be under no obligation to give workers an extra day off unless a new law is passed.

Head of consultancy, Peter Mooney, said: "All employees are currently entitled to a minimum of 28 days holiday a year - which for most people is split into 20 days annual leave plus eight bank holidays.

"Next year, there will be nine public holidays, but no change to the number of days off people are allowed - meaning that the extra public holiday will either come out of workers' annual leave entitlement unless their bosses decide to give them the day off as additional paid leave."

When an additional public holiday was last created - on New Year's Eve 1999 - no new law was passed, and the Government seems to be following suit this time, and for the extra day's holiday planned in 2012 for the Queen's Diamond Jubilee.

Mr Mooney added: "David Cameron has obviously got the positive headlines by announcing the extra day off but until he passes a temporary order, nothing has changed.

"Businesses who aren't sure need to check their employment contracts to see whether staff are entitled to public holidays on top of an annual allowance, or whether bank holidays already come out of an overall entitlement."

Health & Safety

Health and Safety laws under review

A string of new legislation is currently before Parliament after the Government published the results of Lord Young's long-awaited review of health and safety laws.

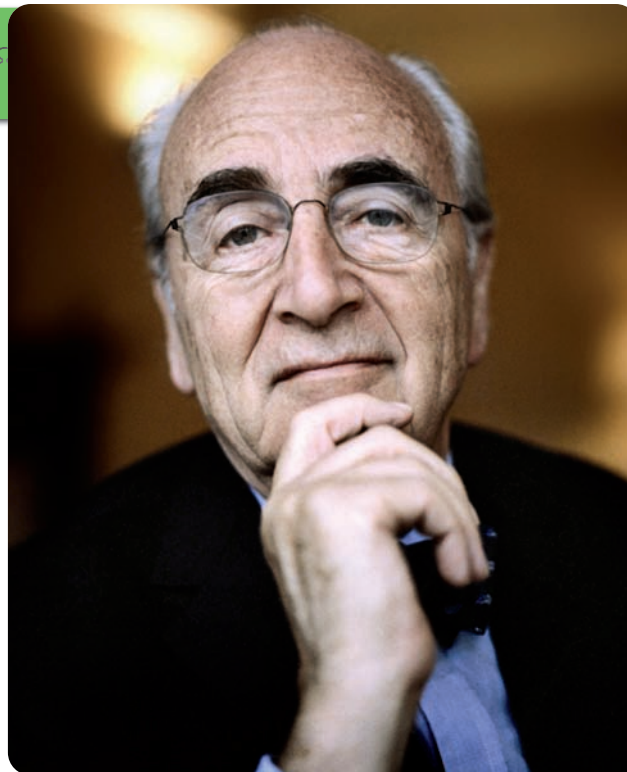
Within days of Lord Young's report being published in October, six new Private Member's Bills were unveiled, covering everything from risk assessments for schools to regulations around self-employed people or homeworkers.

On the face of it, most of these bills appear to herald good news for small and medium sized businesses in particular but, as always, the devil will be in the detail and as yet, the wordings of the bills are secret.

Only when the bills reach their second readings between March and July next year will we truly know what the bills would mean for businesses - and that's assuming they make it into law.

Head of health and safety, Wayne Dunning, said: *"Private members bills rarely make it onto the statute book, but even so, there is enough to worry about in what we have seen so far to merit taking a closer look."*

"While we all want to see less red tape for businesses, it is vital that we don't do so simply by lowering standards which will ultimately lead to more businesses appearing in court for serious breaches which endanger staff."



In addition to the six Private Member's Bills, five specific consultations relating to Lord Young's proposals will be launched early in 2011.

Keep in touch with ELAS's health and safety team on 08450 50 40 60 for more information on what they mean for you and how you can have your voice heard at Westminster.

Training

ELAS adds new courses to its training package

ELAS now offers a range of training courses to ensure your team has the skills and knowledge it needs to keep your business in good shape.

Courses range from helping you deal with managing sickness and absenteeism and strict TUPE regulations to carrying out specific risk assessments - all of which can be tailored to your business's own individual needs.

As well as our bespoke training plans, we also provide HSE-approved first aid training courses and, as of January 2011, will also be accredited by the Institute of Occupational Safety and Health (IOSH) to deliver essential health and safety courses.

Our one-day IOSH Working Safely course gives staff with no supervisor or managerial responsibilities a secure grounding in the essentials of health and safety; IOSH Managing Safely is for those responsible for managing and implementing safe systems of work; while IOSH Directing Safely is for senior managers to ensure they are aware of their own, specific responsibilities at the top of their businesses.

As with our other training courses, all these courses can be delivered nationwide, either at your premises or a suitable training venue near you.



For more information, to book a place on a course or arrange a bespoke training package for your business, call ELAS on 08450 50 40 60.

Health & Safety

£15,000 compensation for hearing loss

A former process operator employed by a major display screen manufacturer has been awarded compensation of £15,000 after his employer failed to protect him from excessive noise exposure.

The employee suffered permanent hearing loss after working at the Durham-based plant for more than 25 years without the necessary protection from noise levels.

It was only since leaving the factory and undergoing medical tests that he was able to prove that the damage had been caused during his working time at the factory, forcing him to have to use hearing aids at the age of 52.

Shop fitter fined for exposing workers to asbestos

A shop fitting company has been fined £4,000 and been forced to pay more than £3,000 in costs after it exposed five workers to potentially deadly asbestos fibres at a prominent Manchester-based shopping centre.

The firm was prosecuted for ignoring a HSE report which stated asbestos was present in a shop where they were working.

Two of the workers spent five days ripping out old shop fittings in October 2009 before they discovered that asbestos had been used in some of the ceiling panels.

An investigation into the case found that the employers knew that asbestos was present in the shop but had not informed its staff and didn't ensure their safety while working at the site.

Work-related health conditions on the up

There has been an increase in the number of employees suffering from work-related illness, according to officially recorded figures.

While fatal injuries appear to have fallen, work-related illness has in fact risen with an estimated 1.3 million who worked during the year 2009 - 2010 admitting to suffering from illness caused or made worse by work.

The most commonly reported work-related conditions are musculoskeletal disorders, stress, breathing and lung problems and infectious diseases.

ELAS warns of asthma risk to paint sprayers

Bodyshop operators have been urged to do more to protect their staff when spraying paint.

Research carried out by the HSE found that staff using two-pack paints containing isocyanates are more likely to develop occupational asthma.

Studies also found that 85 per cent of sprayers do wear Air-fed

breathing apparatus, but some sprayers and managers of bodyshop operations remain unaware of the link between breathing in the chemicals - which are found within the invisible spray mist - and developing occupational asthma.

While we appreciate that sprayers work to tight deadlines, occupational asthma destroys careers and lives and employers cannot afford to gamble with the health of their staff.



Legislative Calendar

Legislation	In force	Need to know	Applies in
Equality Act 2010	01.10.10	Consolidates law on discrimination, creates new offence of indirect discrimination on grounds of disability.	Great Britain
Control of artificial optical radiation at work regulations 2010	27.04.10	Enacts EU Directive on protection of workers from risks from lasers and other artificial optical radiation sources.	Great Britain
Notification of conventional tower cranes Regulations	06.04.10	Requires information about tower cranes assembled on site from components to be notified to the HSE after installation.	Great Britain

Blunders



WIN £25
M&S vouchers

Health and Safety regulations can be so complicated they can leave even the most dedicated of businesses tangled in red tape.

But quite how businesses can get it this badly wrong is beyond us!

Even our consultants lost count of how many regulations these guys would break by hoisting one fully-laden forklift with another.

If you see a blunder like this, we would love to see it. In fact, we'll even give £25 Marks and Spencer vouchers to the best - or worst! - example sent in each quarter.

Email your photos to blunders@employment-law.uk.com

Health & Safety



*Dashing through the snow
In a one horse open sleigh
O'er the fields we go
Laughing all the way*

A risk assessment must be submitted before an open sleigh is considered safe for members of the public to travel on. The risk assessment must consider whether it is appropriate to use only one horse for such a venture, particularly if passengers are of larger proportions. Please note, permission must be gained from landowners before entering their fields. To avoid offending those not participating in celebrations, we would request that laughter is moderate only and not loud enough to be considered a noise nuisance.

*Rudolph, the red-nosed reindeer
had a very shiny nose.
And if you ever saw him,
you would even say it glows.*

You are advised that under the Equal Opportunities for All policy, it is inappropriate for persons to make comment with regard to the ruddiness of any part of Mr. R. Reindeer. Further to this, exclusion of Mr R Reindeer from the Reindeer Games will be considered discriminatory and disciplinary action will be taken against those found guilty of this offence. A full investigation will be implemented and sanctions - including suspension on full pay - will be considered whilst this investigation takes place.



Employment Law Advisory Services Limited
 Charles House, Albert Street, Eccles,
 Manchester, M30 0PW
 Tel: 0161 785 2000
 Fax: 0161 787 7335
 Email: sales@employment-law.uk.com