

## Insights

# FIGHT FOR THE RIGHT (NOT) TO PARTY?

Dec 12, 2022

At the end of November, a French appeal court ruled that an employer could not dismiss an employee (called in this case “Mr T”) for refusing to participate in after-work drinks and team building activities. The judgment made national headlines as an employee exercising “the right to be boring”.

The French appeal court went on to say that the employer could not make Mr T “*forcibly participate in seminars and end-of-week drinks...frequently ending in excessive alcohol intake*”. It ruled that Mr T had the right to dignity and respect in his private life, and that he was entitled to freedom of expression by refusing to take part in out of office activities involving alcohol.

This raises an interesting point as to the extent to which employers can encourage or require employees to attend. Out of office events is a broad term and can cover everything from organised team building days to senior management “retreats”, to casual evenings down the pub. Not all involve alcohol or excessive behaviour, which was Mr T’s main objection to his employer’s activities.

Broadly, the closer the “work” nature of an event, the more important it is for an employee to attend, and the more likely it is for an employer to expect attendance. An employee can be ‘boring’ about nights out down the pub, or even the Christmas party, but matters become more difficult when it is an off-site department retreat to discuss business development, or lunch with a new joiner. Events that are closer to work are also normally less likely to involve alcohol.

But what do UK employees actually think of out of office events? There are very few UK surveys, but a recent VitalBriefing HR survey revealed that only 14% of employees felt that team building activities of any kind enhanced relationships with colleagues, and fewer than 1 in 5 employees believed out of office bonding improved working relationships. The overall response was that team building events did no harm, but they did little or nothing to improve work.

The figures relating to work events and alcohol consumption reveal that it is probably very much a matter of personal choice. Employers do not need reminding, especially at this time of year, of the dangers of alcohol-fuelled work events and parties. UK wide statistics reveal that, subject to age and (small) differences between men and women, around 25% of the UK population does not drink at all. Certain religious groups have strong feelings about drinking, and employers are already

aware of the issues. A recent Totaljobs survey saw 60% of UK workers wanting external events to be held at venues other than pubs or bars, and 63% wanting many more alcohol-free options offered at work events.

Mr T's case was unusual both in the alcohol-based nature of the activities and the open insistence of the employer to attend, but UK employers should take note. Employees do have the right not to party, and it is ill-advised to go any further than encouragement. Attendance at events such as after work drinks, Christmas parties and team quizzes/lunches might be desirable, but for various reasons employers should be very cautious about being seen as coercing employees into attending, or implying that non-attendance might be career-limiting. Employees may have very good reasons to say no, including family commitments, not enjoying the prospect of spending more time with colleagues they see all day, not liking alcohol or just wanting to go straight home. Anyone who does not drink will know how it can feel sometimes to spend an evening in the pub with a group of keen drinkers!

But if work events are closely related to work itself rather than mere socialising, take place during working hours and involve nothing stronger than coffee, the position may be different. For example, meetings relating to in-house training, business development or initiatives to improve communications between employees may be part and parcel of day-to-day work, and employers have the right to be unimpressed if employees choose not to attend.

Out of office socialising should not be a pressure point, nor seen as a requirement for promotion.

Merry Christmas!

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