

Dear Readers,

As the beginning of November is the perfect time to start planning, thinking and talking about end-of-the-year activities, we are devoting November's HR Perspectives to these festive issues.

This issue includes such topics as:

- days off for religious celebrations for employees of various faiths
- alcohol and Christmas parties,
- days off around Christmas,
- the still hot topic of COVID-19 vaccinations, this time within the context of Christmas Eve company parties.
- staff annual appraisals.

We hope that our November newsletter will make some of your decision-making and tasks easier or provide you with a timely reminder of issues that will need to be addressed soon.

Perhaps it is too early for Christmas wishes, so we wish you happy reading!

Karolina Schiffter
Marcin Sanetra

Religious celebrations - days off for employees of various religions

Author: Agnieszka Król, advocate, lawyer, agnieszka.krol@pcslegal.pl

December 25 and 26 are days off for all employees, not only for Christians. If an employer requires an employee to work on those days, provided that it is legally permitted, they must give the employee the equivalent time off before the end of the reference period, regardless of whether or not the employee celebrates Christmas. If it is not possible to give an employee time in lieu, the employee must be paid an additional amount equivalent to 100% of their normal pay for that period.

What about employees of other religions, whose presence is becoming more prominent every year because of the increased number of non-nationals on the Polish labour market? How should an employer approach requests from employees wanting to take time off to celebrate their own religious holidays?

Members of various churches and religious associations, whose religious holidays are not statutory days off, may request to be exempt from working during such holidays. How does this work in practice? An employee who wishes to celebrate a religious holiday that falls outside statutory holidays should apply to their employer for time off at least 7 days before the planned leave. The employee's request is not discretionary, which means that an employer must grant the requested time off. However, leave is granted on the condition that the employee works it off without additional remuneration. The employer should inform the employee about the conditions for working off the leave no later than 3 days before the planned time off.

Drinking at the company Christmas party

Author: Magdalena Profic, paralegal, [magdalena.profic@pcslegal.pl](mailto:magdalenaprofic@pcslegal.pl)

Many employers wonder whether alcoholic drinks may be consumed at the company Christmas party. The provisions of the Upbringing in Sobriety and Counteracting Alcoholism Act, which are considered fairly rigid, state that such practice is unacceptable. This does not mean, however, that celebrating the company's success together over a glass or two is forbidden.

Prohibiting drinking at work is not an absolute ban. Employees can take part in a special event, organised with the employer's consent, after working hours. It does not constitute a breach of duty, even if the event takes place on company premises. A company Christmas party organised outside working hours is considered a special event. Therefore, it is up to the employer to decide whether or not to allow alcohol at such events. Of course, with moderation and employee safety always in mind.

What if not all employees behave responsibly and the celebration gets out of control, for example, an employee drinks too much and becomes aggressive? Employees must comply with the general rules of social conduct at the workplace. Even if a Christmas party takes

place outside working hours, employees are still obliged to refrain from aggressive behaviour or actions that may lead to conflict or endanger the safety of others at the workplace. Therefore, misbehaving employees can be held accountable. The consequences may vary from mild, such as asking an employee to leave the party, to severe, such as terminating their employment.

Company Christmas party only for vaccinated employees?

Author: Karolina Rogatko, lawyer, karolina.rogatko@pcslegal.pl

As the Christmas season approaches, many companies decide to organise a festive event for their employees, such as a company Christmas Eve celebration. However, the ongoing COVID-19 pandemic remains a source of concern for many employers. Considering that, is it possible to hold a Christmas party only for vaccinated employees?

This problem should be looked at from the perspective of the crucial employer duty, which is to protect the health and lives of employees. Although throwing a Christmas party for a large number of employees is likely to be considered a nice employer's gesture, it carries an increased risk of coronavirus infection. Therefore, employers should introduce policies that will reduce the infection risk on the one hand, but on the other, will not expose an employer to claims of discrimination or unequal treatment in employment.

An employer can require employees who wish to attend the party to provide the COVID-19 vaccination certificate or a negative coronavirus test result.

The collection and storage of personal data is also an important matter to consider. The issue of GDPR compliance can be easily dealt with if an employer decides to verify employee vaccination status by requesting employees to only show the certificate, without storing such data.

Annual performance assessment during the pandemic

Author: Oskar Kwiatkowski, lawyer, oskar.kwiatkowski@pcslegal.pl

The annual performance assessment can be carried out remotely. However, employers should pay attention to a few crucial issues that can affect potential decisions concerning the employee. One thing that comes to the fore is the principle of equal treatment in employment. It is important not only to give an honest and thorough employee appraisal but to apply fair and consistent standards throughout the whole appraisal process.

It is quite common that employees who received negative feedback claim that the appraisal process was unfair and discriminatory. Therefore, the whole process should be carefully designed to ensure objectivity, preferably by introducing specific measurable criteria or, for example, enabling the assessment of an employee's work by managers together with an employee's co-workers and team members.

We should also pay attention to the fairness of the assessment, even if it means providing some of the employees with negative feedback. In our practice, we often see employees dismissed for poor performance presenting an impressive history of positive annual appraisal in court. Although giving negative feedback may feel uncomfortable at the time, not doing it can bring serious consequences. If an employee performs poorly, it must be communicated and recorded during the annual appraisal process.

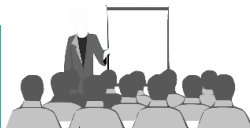
Moreover, the annual appraisal meeting is a good moment to discuss not only an employee's performance but also such issues as work organisation, e.g. task distribution in a task-based work system and overtime. Another good idea is to ask the team for their opinions, for example, about the remote and hybrid working. This will help to avoid future doubts and potential claims concerning overtime and many other controversial issues. Employee feedback can be a source of valuable information to an employer, for example, on the type of desired employee benefits, as some of them, such as sports cards or fruit at the office, have lost their appeal because of the pandemic.

Financing Christmas gifts by the company social fund

Author: Patryk Koziel, paralegal, patryk.koziel@pcslegal.pl

Employers often prepare Christmas gifts for their employees and this tradition often extends to employees' children, who are given sweets and other small gifts. These presents can be financed by the company social fund, which means they are exempt from tax and social contributions. Christmas gifts for employees' children are a classic example of a benefit that can be financed by the fund.

However, what about the social criteria? Should the granting of gifts and their value depend on the employee's life, family and financial situation? Does it mean that an employer cannot prepare the same gifts for all children? We believe that it can and applying the criterion of family situation, namely the number of children, is sufficient. Another thing to consider is that gifts are often given at a company Santa Claus party. This fact is particularly important when we look at it from the perspective of the value, or rather the content, of the gift. It is only natural that children will compare their presents at the event. Therefore, it would not be fair to give them gifts of different value.



Employer and employee in court: Remote labour court

We invite you to yet another 'Employer and employee in court' meeting.

Date: 24 November 2021, at 11:00-11:45 a.m., online.

Speakers: Sławomir Paruch and Marcin Szlaska-Rokicki, attorneys-at-law.

Please apply here: perspektywyhr@pcslegal.pl | More: [here](#).

Women embarking on a professional career

PCS Paruch Chruściel Schiffter Stępień | Littler Global together with the Business Boutique Foundation would like to invite you to a panel discussion: 'How to understand and thrive in hybrid work environment'

Date: 26 November 2021.

Speaker: Karolina Schiffter, advocate

More: [here](#).

Polski Kongres Compliance (Polish Compliance Congress) - Compliance in the HR area

We invite you to the meeting organised by Must Read Media.

Date: 30 November 2021, 9:00 - 9:45 am.

Speaker: Bartosz Tomanek, advocate.

More: [here](#).