

The HR problem lurking beneath the Secret Santa wrapping

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HR managers should bear in mind that complaints about Secret Santa gifts gone wrong can be made against the employer as well as the person who sent the gift, says Ogier employment lawyer Rachel DeSanges.

She says that although employers may have got the message about behaviour at Christmas parties – following numerous employment tribunal judgments establishing vicarious liability – Secret Santa gifts still pose a potential risk to businesses.

An inappropriate Secret Santa gift that refers to a person's sex, gender reassignment, pregnancy or maternity in a way that causes offence can lead to a harassment complaint and an award of up to three months' pay, payable by the employer whether they had any direct involvement in the offending gift or not.

Rachel who has more than ten years' experience advising employers in all area of employment law said: "What might seem like a harmless joke from one employee to another can create a problem that affects the organisation as a whole.

"A gift that offends someone on the grounds of a protected characteristic such as sex, can trigger a harassment complaint against the employer as well as the person who gave the gift.

"Harassment complaints don't just absorb time and money, they can create PR nightmares and lasting damage to an employer's brand and reputation.

"A good rule of thumb is that if you have to ask yourself whether a gift is appropriate, it probably isn't!"

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