



ANTI DISCRIMINATION
COMMISSION QUEENSLAND

**When does work life stop and private life start?
Dealing with inappropriate outside work hours conduct**

Presentation by

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Harassment occurring outside of normal working hours

- What are the employer's rights and responsibilities?
- How should it be dealt with?

Anti-Discrimination Act covers

- Discrimination in the workplace, e.g. sex, race, disability, age, etc.
- Racial or religious vilification.
- Sexual harassment.

Vicarious Liability

Employers are liable for contraventions of the Act done by their workers or agents in the course of their work

Complaints can be made against either or both

Defence: employers took **reasonable steps** to prevent the discrimination or harassment

Employers have the right to have workplace rules and codes of conduct to govern employee behaviour.

Issue:

How far outside normal working hours, and the usual workspace, is an employer responsible for the conduct of their employees?

When is an act of an employee

“in the course of work?”

Liability is imposed on employers for the acts of their employees in the course of their employment or work when it is **in some way related to or associated with the employment.**

X-mas Party

Conduct of staff is within course of a worker's work
= employer can be liable for harassment at party.

Thomas v Westpac (1995) EOC92-742

Post X-mas Party

Employer may not have responsibility for or right to
discipline for inappropriate behaviour.

Streeter v Telstra Corp (2007) AIRC 679 (Case on appeal)

Drinks after work

- Law is not clear.
- Some cases state employer has no right to control and is not responsible for conduct of employees while others have found after-hours sexual harassment is incompatible with the duty of an employee.

Attendance at conferences and staff accommodation

Employers can be liable for employees' conduct, and have right to discipline inappropriate conduct. Employees are put in a situation of proximity to each other while attending conference.

“In the course of work”

- has a broad meaning, and is one of practical application
- acts have to be in some way related to or associated with the work or employment.

Prevention

- Put in place codes of conduct and equal opportunity policies.
- Train all staff.
- Train supervisors and managers regularly.

If harassment occurs

- Have process to deal with complaints quickly, privately, seriously.
- Seek expert advice if necessary.