

Halloween could be employers' nightmare but businesses don't have to be afraid

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Inappropriate behaviour, 'sexy' costumes and conflicts of religious belief could make Halloween an HR nightmare for employers, but a few simple steps should leave businesses with little to fear, according to leading provider of legal services and advice, ARAG.

In the UK at least, Halloween was once strictly 'for the kids'. But the festival has crept into the workplace with fancy dress, themed sales events and even after-work parties all becoming popular.

Any of these could present potential HR issues, especially as Halloween falls on a normal work day this year, but employment lawyers at ARAG say that, by taking a few precautions, any risks should be manageable for companies planning an event.

"Businesses should treat Halloween like any other festival or celebration." says Head of Underwriting & Marketing, David Haynes. "Just like Christmas parties, employers need to be aware of the risks and remind staff of the boundaries."

ARAG's Halloween checklist for employers:

Fancy dress - Staff should be able to find an outfit within normal dress codes, but remind them to avoid anything too revealing or with a religious theme and make sure they think about any workplace safety issues.

Make it optional - Like any celebration, most companies will have staff happy to take part and others who aren't interested, for whatever reason. It's important nobody feels compelled to participate or excluded because they don't.

Communications - It's good for staff to have a bit of fun, but easy to forget that normal office rules still apply. Remind staff that suggestive or offensive pictures, messages and jokes are wrong, whatever day of the year it is.

Alcohol - It's always best to keep drinking off work premises but also important to remember that language or behaviour at any work event could still constitute misconduct or harassment, wherever it takes place.

Absence - Whether managing requests for leave or dealing with morning-after absence, staff should be treated fairly and just as they would on any other day.

Various employment law 'horror stories' are retold at this time of year, involving sacked employees and 6-figure tribunal claims, but these cases made the news because they are exceptional and few of them are intrinsically about Halloween:

City of York Council v Grosset

GBP 380,000 was awarded by an employment tribunal to a teacher after he was sacked for showing the film Halloween to a class of vulnerable teenagers. His claim was for discrimination on the grounds of his life-limiting disability. Most businesses would be unlikely to find themselves in such a scenario. This is a lesson about handling disciplinary matters, not Halloween.

Biggin Hill Airport Ltd v Derwich

This case saw an employee dismissed after she changed a recently promoted colleague's screensaver to a picture of a witch. While Halloween may have inspired the choice of picture, the original tribunal judgement that her dismissal was unfair rested on procedural failings and was overturned at appeal.

Holland v Angel Supermarket Ltd and another

The one case about Halloween with a genuinely useful lesson for employers concerned an employee who asked to change shifts to celebrate All Hallows' Eve. An employment tribunal found that her subsequent harassment and sacking for being a Wicca-practising pagan amounted to unfair dismissal and religious discrimination.

"Religious belief is often the biggest concern for employers around Halloween and the law is relatively new in this area, having been introduced in the 2010 Equality Act." Continues David Haynes, "To a few people it is an important festival, whereas others may find the idea of celebrating Halloween offensive. Legally, however, people have the right not to be harassed or discriminated against at work, whatever their religion or belief and even if they don't have one at all."

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Notes to Editors

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