



## Fight or flight? Dealing with violence in the workplace

By **Dónall Breen** - 31st October 2018

Last month there was a UFC fight between two high profile contenders - McGregor and Khabib. Anyone watching the fight will remember it for one thing only - Khabib launching an attack on McGregor's support team after the bell and McGregor himself getting attacked in the octagon when the fight was over. UFC publicly stated it was a shameful display and their reaction was immediate - Khabib was not paid and stripped of his title.

The example may be extreme, but in the principle many employers are faced with a similar dilemma. Two employees engage in needless violent behaviour and tough decisions are required during the disciplinary process. But it is not always straight forward. We have [previously written](#) on how the Employment Appeals Tribunal agrees that two employees can be treated differently and the result can still be found reasonable.

The issue of violence in the workplace has once again been highlighted in the employment law headlines, this time in the Court of Appeal. A recent decision found that a managing director's drunken assault on employee was "in the course of employment" rendering the company vicariously liable. The facts were unfortunate, but in reality, not that unusual. There was a Christmas party, the party continued into the night, the managing director had too much to drink and, after being challenged by junior about a work issue, punched him in the face. Alcohol fuelled violence is neither rare nor unusual, regardless of whether it is a work function or not.

What does make the case a little unusual is the context in which the court found it was linked to employment. Although generally unorganised 'after-parties' where everyone buys their own drinks won't be classed as an extension of a work function, in this case the MD was wearing his 'corporate hat' at the time as he was pontificating about the rights of his corporate position. Some commentators have said these are narrow facts. However, as party season approaches many of us will find that 'talking shop' continues long into the night and is a source of particular tension as inhibitions fall away.

So how can employers deal with these issues? The answer is simple, but not easy. Shut the party down early. There should be a clear line when the party stops and management go home.

However, this is an unpalatable option for many who see parties as a way to break down stiff barriers and build team moral. If that is

the case, mitigate the risks by considering these tips:

- Remind managers of their position and responsibilities. They are answerable for their actions, even outside the workplace.
- Make it clear to all employees that violence against a colleague is a serious matter, regardless of the context - a bruised ego is better than a black eye and termination letter.
- On a practical level, be smart. Make sure drinks come with plenty of food and water. Have free taxis home to encourage those feeling worse for wear to call it a night, and perhaps book them in advance for a set time.
- The morning after the night before, be calm. If things have kicked off avoid rash decisions. Pull out your disciplinary policy, follow it, and ensure a fair process is followed. Considering leaving it a day or two before starting proceedings to allow tempers to cool.

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