

Silly season sensibilities



The silly season is fast approaching, and soon enough your establishment will be full of, well, full patrons. **Jonathan Kaplan** investigates.

The last quarter

of the year traditionally involves a multitude of end-of-year Christmas parties where you as restaurateur are

engaged to provide the venue, the food and the alcohol for a range of customers.

Facilitating these functions requires you to make some important commercial decisions that could significantly impact on the life of your liquor licence and the future commercial viability of your operation.

It used to be exciting to take a booking from a well known corporate entity, knowing that no expense would be spared on the food and that the instruction would be "open bar". Things have changed as employers become more conscious of what can go wrong and the potential legal consequences.

There has always been a level of responsibility but that is now heightened, given the many violent alcohol-fuelled incidents over the past year or so in CBD 'entertainment' precincts. Even though your business may not be in a CBD, there is a likelihood that patrons at the event on your premises will venture into the CBD nightclub precinct for an 'afterparty and could possibly find themselves involved in a fracas and at the wrong end of a broken bottle – or even be the aggressor. The patron's footsteps could be traced back to your establishment requiring you to 'please explain' how they got to that level of intoxication.

Of course what you and your staff learned in the Responsible Service of Alcohol training should be at the forefront of your thinking. If it's not, I suggest you re-read your notes or take the online refresher course to bring you up-to-date. Recognising when a patron has had too much to drink is fairly simple and suspending service to that person is a logical step and could save you a great deal of aggravation should there be a subsequent investigation.

Although there does not seem to be a legal duty on you to exercise reasonable care to prevent an intoxicated patron from harming him or herself, it is accepted that there is a duty to take reasonable care to

avoid the foreseeable risk of injury to patrons deliberately caused by the acts of other patrons.

The types of precautions you should consider taking include:

- Having adequate staffing levels
- Ensuring staff compliance with written policies and procedures of the business
- Addressing intoxication in the early stages
- Strict compliance with RSA philosophies

As a restaurateur you need to take reasonable steps to minimise your legal exposure and to discourage patrons from acting inappropriately. I highly recommend that in appropriate cases where you have been engaged for a Christmas party you should have a conversation with the host of the function and agree to:

- Set a reasonable limit on alcohol supplied and impose a reasonable finishing time
- Take steps to intervene if you are aware of an employee's excessive drinking or inappropriate behavior.
- Have a bartender dispense the alcoholic drinks and instruct him or her as to when to limit alcoholic service.
- Provide a plentiful supply of low alcohol and non-alcoholic beverages, bearing in mind that some companies have even decreed alcohol-free parties!

I have come across articles encouraging employers to hold their Christmas parties off-site. If held off-site at a restaurant, some of the potential liability may be shifted from the employer to the restaurant. So, if your Christmas party bookings have increased, there may be an underlying reason.

The success of an end-of-year function is dependant upon the willingness of you and your host to implement and communicate proven policies.

Failure to do so will almost certainly attract the attention of the licensing authorities with all of the associated inconveniences and potential penalties.

The advice and information contained in this article is of a general nature only and is not intended to constitute or replace professional advice.