

## CAN STAFF/VOLUNTEERS DRINK WHILST WORKING IN LICENSED CLUBS?

It is important for Clubs to promote the responsible service and consumption of alcohol at all times, therefore Clubs SA strongly discourages it, but is it illegal for staff (paid and unpaid) to drink:

- when serving behind the bar, or
- prior to serving behind the bar?

### DRINKING WHILST SERVING BEHIND THE BAR

The law states that the premises must be **“properly managed at all times”**. The Committee must consider these points carefully:

1. If a person has been drinking whilst serving liquor, and something untoward occurs, then that person, (and the licensee, which in this case is the Club), will need to demonstrate that the drinking didn't compromise the bar person's ability to properly perform their duties, including the ability to judge intoxication.
2. The Club has a duty of care to everyone associated with the Club, whether they be volunteers, paid staff, Members or the general public. Therefore, the Club must not act in a way that adversely affects their health and safety. By law, whether it's under the WHS Act or common law, the Club must provide a work environment without risk to the health and safety of themselves and others.
3. Clubs are seen as safe and welcoming places for the community to gather and share their interests. Drinking behind the bar sets a poor example for not only the adults present who are there to enjoy themselves, but in particular the children and younger club members. People at the Club who are entrusted with the responsibility of serving liquor must set an example to everyone else at the Club;
4. Bar staff handle glasses and bottles, take money, operate equipment etc. If something goes awry in this area, the person behind the bar (and again the Club as the licensee) has no defence if the barperson was showing signs of intoxication.

5. Non-compliance with laws & Codes of Practice may result in disciplinary action. The Club Committee is the licensee of the Club and must respond to any breaches, which may result in the Club's licence being suspended or revoked, or subject to the payment of heavy fines.

## **DRINKING PRIOR TO SERVING BEHIND THE BAR**

If a person consumed a couple of drinks at lunch and then began a shift behind the bar some time later, the person should not present a risk to the Club or its patrons providing the person didn't continue to drink behind the bar when on shift.

The only proviso to this of course is if the person was showing signs of intoxication just prior to his/her shift behind the bar. Under no circumstances should this person be allowed to proceed.

## **INTOXICATION – WHAT DOES IT REALLY MEAN?**

Finally, it is important to highlight the difference between showing signs of intoxication and recording a high blood alcohol level.

A person cannot lawfully operate a vehicle with a blood alcohol limit above 0.05.

This is very different to the obligations under the Liquor Licensing Act which refer to signs of intoxication:

- the person's speech, balance, co-ordination or behaviour is noticeably affected; and
- it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor or some other substance;

Under the liquor legislation it is the licensee's obligation to ensure that anyone showing any sign of intoxication is not served or supplied liquor.

It is not however the licensee's obligation to guess the reading of a person's blood alcohol level.