



Department
of Industry

Liquor & Gaming

Responsible Service of Alcohol

Student course notes

NSW Responsible Service of Alcohol

STUDENT NOTES

Liquor & Gaming NSW

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Introduction to RSA

What is responsible service of alcohol?

Responsible service of alcohol – known as RSA – is about providing rules and strategies for all types of businesses and organisations that sell alcohol with the aim to:

- ▲ minimise alcohol-related problems, including anti-social behaviour and violence;
- ▲ implement best practice in the sale and supply of alcohol and the operation of licensed premises; and
- ▲ prevent local neighbourhood disturbance that can be associated with alcohol consumption.

RSA is a fundamental principle protected by the laws of NSW. RSA guides licensees and their staff to ensure they sell alcohol responsibly and comply with the liquor laws. It includes flexible and proactive initiatives that suit industry sectors and individual licensed premises. It helps to reduce the risk of alcohol-related problems arising in and around licensed premises.

Responsible service includes a range of strategies to prevent people becoming intoxicated. It can be as simple as serving free water and food, or having extra security personnel. It can include measures such as not selling shots and high alcoholic content drinks after midnight.

To comply with RSA licensees and staff must:

- ▲ not serve anyone under the age of 18;
- ▲ not serve anyone who is intoxicated;
- ▲ comply with the liquor laws.

To do this effectively, licensees and staff should:

- ▲ keep up-to-date with any changes to the law;
- ▲ monitor consumption patterns and recognise the signs of impending intoxication;
- ▲ discourage patrons from engaging in activities which can harm themselves or others;
- ▲ understand the principles of 'standard drinks' and how alcohol can affect individuals; and
- ▲ understand the impact of alcohol abuse and misuse on the community.

RSA means that licensees and staff must comply with all NSW liquor laws. It also means that they must promote and support a safer environment by only selling, serving or promoting alcoholic beverages in a professional and responsible manner. Good RSA practices help to ensure that patrons do not become intoxicated and then become a problem for staff, management and the local community.

The evolution of the NSW liquor laws and RSA

Governments recognise the negative impact that alcohol can have on the community. As a result, the sale and supply of alcohol is appropriately controlled. Sanctions apply where licensed premises are poorly run and irresponsible serving occurs – such as intoxication and people under 18 years of age (minors) obtaining alcohol.

RSA has been part of the State's liquor laws for more than 100 years.

There have been many significant amendments made to the liquor laws over the past 20 years in response to changing community attitudes and government policy regarding the sale and supply of alcohol.

Some of the most significant changes occurred in 1996 when the liquor laws were changed to introduce 'harm minimisation' (ie. minimising the harm associated with the misuse and abuse of alcohol) as one of the key purposes of the liquor laws. The move to a harm minimisation approach in the liquor laws followed increasing concern about the extent of alcohol-related crime and violence – particularly in and around licensed premises.

In 2008, a new Liquor Act commenced, further strengthening harm minimisation controls applying to the sale and consumption of alcohol.

In 2009, a new scheme was introduced that applies special conditions and restrictions on licensed premises that have high levels of alcohol-related violent incidents.

In 2012, the Three Strikes disciplinary scheme commenced to impose strikes where serious liquor law offences are committed, such as permitting intoxication and underage alcohol supply on licensed premises. Three strikes can result in loss of licence or disqualification from the industry. In late 2017, these laws were amended so that it is the licensee or approved manager that incurs a strike, not the venue.

Amendments to the liquor laws in 2012 and 2014 established a regulatory framework that imposes special conditions on licensed premises in the Sydney CBD and Kings Cross precincts. The 2014 reforms included a 1.30am lockout and 3am last drinks restriction on hotels, clubs, nightclubs and karaoke bars.

This changed in 2016 to 11pm. In late 2014, further harm minimisation reforms were introduced, including an escalating sanctions regime for selling alcohol to minors, and enabling the Independent Liquor & Gaming Authority to suspend or revoke a person's RSA certification where a person has not met their responsible serving obligations.

In March 2015, [*Prevention of Intoxication on Licensed Premises*](#) guidelines were issued to assist licensees comply with the liquor laws and better manage the risk of intoxication.

A risk based licence fee scheme was also introduced from 2015, requiring all licensees to pay an annual liquor licence fee. Venues that trade late (e.g. after midnight) or commit serious liquor law offences are required to pay additional fees to reflect the increased risk they pose to the community.

In June 2016, online refresher training was introduced so licensees and staff could refresh their RSA knowledge and skills every five years and obtain a new RSA competency card.

In December 2016, the Government responded to an independent review of the 1.30am lockout, 3am last drinks and 10pm restriction on take-away liquor sales. This resulted in a two-year trial of 2am lockouts and 3.30am last drinks times for live entertainment venues in the Sydney CBD and Kings Cross precincts, and a one hour extension of take-away liquor sales and home deliveries until 11pm.

Further to this review additional changes were implemented from 1 October 2017, including: changes to the Three Strikes disciplinary scheme to target those that repeatedly commit the most serious offences; refreshed liquor licence conditions and an extended liquor licence freeze in the Sydney CBD and Kings Cross until 1 June 2018; certain special licence conditions for Kings Cross venues will also be removed to further reduce red tape; improved effectiveness of the Minors Sanction Scheme for venues that sell alcohol to under-18s; enhanced business flexibility for small bars in the Sydney CBD and Kings Cross precincts trading after midnight.

As liquor laws address areas of risk, there are often changes made to ensure the harm minimisation approach is relevant. These reforms support a harm minimisation approach – which emphasises responsible service and consumption of alcohol and the responsible operation of licensed premises. Harm minimisation is justified on public health and safety grounds, given the impact irresponsible alcohol consumption can have on local communities, road safety and public health.

The protection of local amenity is an important factor to be considered. Alcohol-related violence, crime and noise disturbances are likely to erode the quality of life for people living or working in the vicinity of licensed premises.

The liquor laws require patrons of licensed premises to behave responsibly. Penalties apply where intoxicated or violent persons fail to leave licensed premises when requested, or where they attempt to re-enter licensed premises after being ejected.

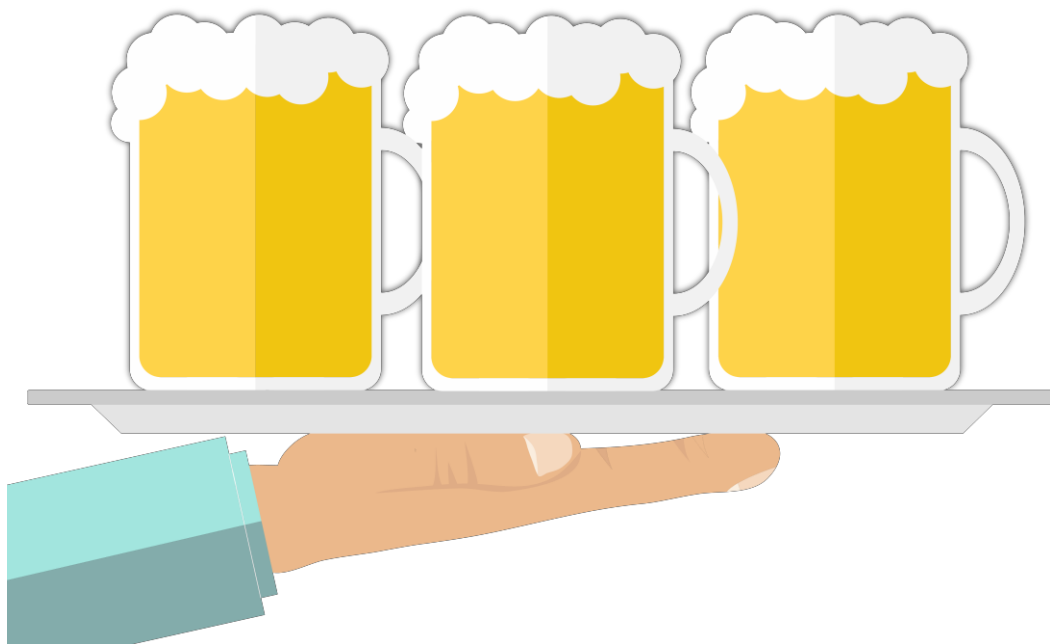
RSA training is mandatory for everyone in NSW involved in the sale and supply of alcohol to the public. This includes licensees, club secretaries, service staff and security staff working at licensed premises. There are no exemptions from undertaking the course.

RSA training also applies to volunteers, promotional staff and contract employees, as well as directors of registered clubs who have alcohol service responsibilities, such as duty directors in small registered clubs.

Sanctions apply to liquor licensees and to staff who serve alcohol or undertake security duties where RSA training has not been undertaken.

Element 1 -

The context of Responsible Service of Alcohol in NSW



Identify the context of responsible service of alcohol

This element identifies the context in which responsible service of alcohol is to be managed.



Assessment criteria

Students should be able to identify:

- ▲ government and community concerns associated with alcohol abuse and misuse, particularly in relation to crime, violence and anti-social behaviour occurring as a result of excessive drinking, and the effects on the neighbourhoods of licensed premises;
- ▲ the impact of alcohol abuse/misuse on the community; and
- ▲ the role of key agencies in regulating and enforcing the liquor laws, such as the NSW Liquor & Gaming NSW, the Independent Liquor & Gaming Authority, the NSW Police Force, the Secretary, Department of Industry and other government agencies involved in preventing alcohol abuse.

In this element we will examine government and community concerns about serving alcohol responsibly, the behaviour of patrons and the importance of providing a safe environment for everyone in the community. In addition, we will also consider the government agencies that have responsibility for the regulation and administration of the liquor laws, and the agencies upon which the liquor laws impact.

The context of RSA in NSW

Why do we need to be aware of, study and implement RSA?

Alcohol is widely used and enjoyed throughout our society, and for many people it forms part of an enjoyable and generally healthy lifestyle that includes good diet and exercise.

For the vast majority of adults, the consumption of alcohol is considered a form of relaxation and social entertainment. However, the misuse and abuse of liquor can have a devastating effect on individuals, their families and society in general. Historically, both in Australia and elsewhere, governments have taken the position that the sale and consumption of liquor should not be left exclusively to market forces.

In fact, all developed countries have liquor laws in place on social policy grounds. They recognise that alcohol is a drug that can have harmful effects and must therefore be regulated.

People who drink regularly at higher levels place themselves at increased risk of chronic ill health and premature death. In addition, heavy consumption of alcohol on a single occasion will also increase the risk of injury to both the drinker and others. These patterns of drinking also have substantial social and economic implications.

Government and community concerns

Because the NSW Government regulates liquor sale and supply, there is an onus on those who are responsible for selling that product to do so responsibly by providing a safe and enjoyable environment for patrons. That onus also means serving liquor to ensure that patrons do not become drunk and subsequently a problem for management, staff and the

When poor patron behaviour is left unchecked, it has the potential to escalate and can manifest into serious crime, including brawls, affray, sexual assaults and property damage.

More than 16,000 licensed premises operate in NSW. Alcohol is widely available. While many Australians enjoy consuming alcohol, high risk drinking practices are of increasing concern.

Key alcohol statistics

In 2013, the estimated total cost of alcohol-related abuse to NSW Government services was \$1.029 billion per annum.³

In 201-2015, there were more than 53,000 alcohol attributable hospitalisations in NSW

(http://www.healthstats.nsw.gov.au/Indicator/beh_alcafhos/beh_alcafhos?&topic=Alcohol&topic1=topic_alcohol&code=beh_alc)

- ▲ In 2016, the NSW Population Health Survey estimated that 27.8% of adults aged 16 years and over (38.0% of men and 18.0% of women) consumed more than 4 standard drinks on a single occasion in the last four weeks.

http://www.healthstats.nsw.gov.au/Indicator/beh_alcsor_age/beh_alcsor_age?&topic=Alcohol&topic1=topic_alcohol&code=beh_alc



References: [National Drug Strategy Household Survey \(NDSHS\) 2016 – key findings: Health Statistics New South Wales2](#)

[Audit Office of New South Wales3](#)

Website:

liquorandgaming.nsw.gov.au

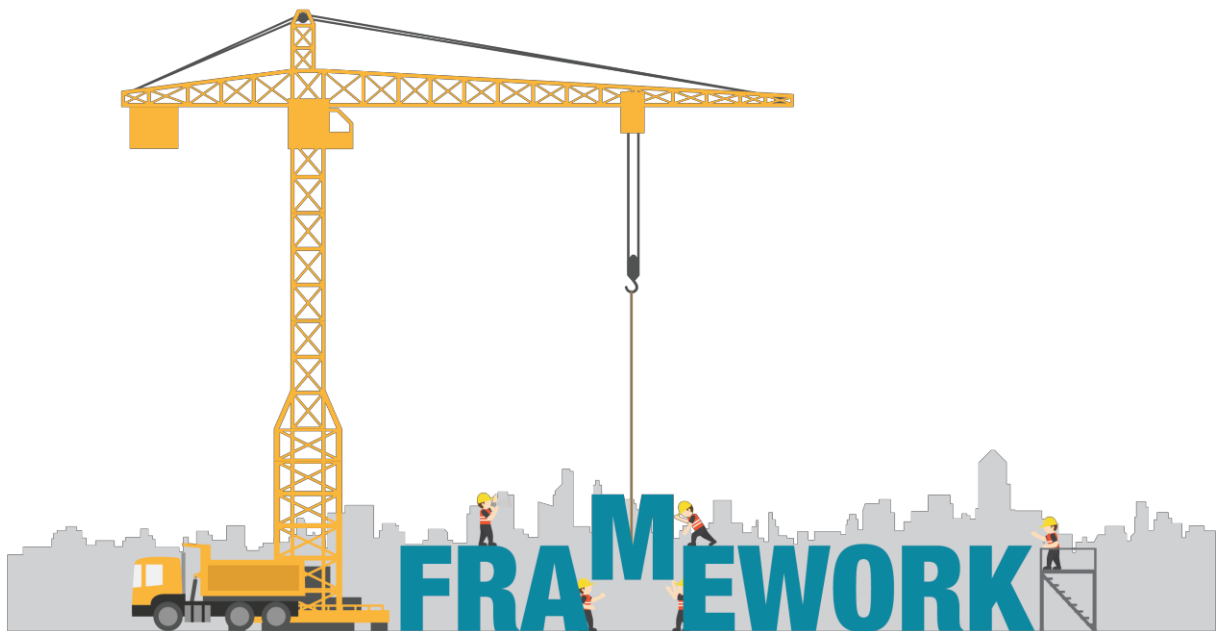
RSA and your business

RSA provides a number of benefits for key industry stakeholders.

Stakeholder	Benefit
Premises	<ul style="list-style-type: none">• Enhanced reputation in the local community• Reduced security, compliance and legal costs• A more sustainable business model
Staff	<ul style="list-style-type: none">• Reduced staff turnover• Increased capacity to attract staff with greater skills and experience• Reduced staff costs
Local community & neighbourhood	<ul style="list-style-type: none">• Greater engagement with the local community• Reduced complaints by the local community• Local community more inclined to visit the premises
Patrons	<ul style="list-style-type: none">• Broader patron appeal• Increased repeat business• Enhanced reputation• Better rapport between staff and patrons
Government agencies	<ul style="list-style-type: none">• Less interventions, including compliance actions• Reduced regulatory costs

Element 2 -

Legislative framework for the Responsible Service of Alcohol



Identify the legislative framework for RSA

This element identifies legislative measures and public interest issues relevant to RSA.



Assessment criteria

Students should be able to identify relevant legislative provisions including:

- ▲ harm minimisation and public interest provisions of the liquor laws;
- ▲ intoxication provisions; and
- ▲ provisions prohibiting underage service.

Legislative framework for RSA

NSW liquor laws

Liquor Act 2007

The *Liquor Act 2007* is the primary legislation regulating the sale and supply of alcohol in NSW.

The Liquor Act has three primary objectives:

1. to regulate and control the sale and supply and consumption of alcohol in a way that is consistent with the expectations, needs and aspirations of the community;
2. to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality; and
3. to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

The law requires that each person who exercises functions under the Liquor Act (including a licensee) must have regard to the need to:

- ▲ minimise harm associated with misuse and abuse of alcohol (including harm arising from violence and other anti-social behaviour);
- ▲ encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of alcohol; and
- ▲ ensure that the sale, supply and consumption of alcohol contributes to, and does not detract from, the amenity of community life.

The Act regulates where, when and how alcohol can be sold on licensed premises, and who can serve and consume it. It allows additional measures and controls to be applied to licensed premises on a case-by-case or precinct basis to address specific risks.

Liquor Regulation 2008

The Liquor Regulation 2008 supports the operation of the Liquor Act. The Regulation prescribes licence conditions and other requirements applying to licensed premises, including mandatory RSA training requirements.



For more information visit:

[Liquor & Gaming NSW](#)

[Liquor Act 2007](#)

[Liquor Regulation 2008](#)

Penalties

Penalties of up to \$11,000 apply and/or 12 months imprisonment for offences under the Liquor Act.

Liquor & Gaming NSW can suspend or revoke a person's RSA certification, or disqualify the person from holding an RSA certification for up to 12 months for serious breaches of the responsible serving laws, such as selling or supplying alcohol to a minor or an intoxicated person.

A person who has their RSA certification suspended or revoked, or is disqualified from holding an RSA certification, can seek a review of that decision from the NSW Civil and Administrative Tribunal.

Strategies to reduce harm

Licensees and staff can assist in reducing alcohol-related harm by:

- ▲ adopting RSA principles;
- ▲ providing support for staff to help them comply with their RSA obligations;
- ▲ maintaining an incident register (which is a document used to record a summary of incidents that have occurred on the licensed premises, and is mandatory for licensed premises trading after midnight);
- ▲ adopting a house policy (which is a statement, or series of statements, that reflect the principles implemented by the licensed premises) that reinforces RSA responsibilities and best practice;
- ▲ being an active member of the local liquor accord (which is an industry-based partnership that operates in local communities to introduce practical solutions to alcohol-related problems);
- ▲ creating a safe, pleasant environment for customers; and
- ▲ promoting safe transport options for patrons.

Another strategy to reduce alcohol-related harm is to provide free drinking water. Where liquor is sold and supplied for consumption on premises, all licensees are required by law to provide drinking water for patrons to consume on the premises, free of charge, during trading hours.

To comply with this requirement, licensed premises can provide water from a container at bar service areas, or by way of water coolers/fountains located at bar areas and throughout the licensed premises, or by some other form of water dispenser.

Liquor licences

A liquor licence is generally required where alcohol is sold. Limited exemptions apply, including where alcohol is sold by non-profit organisations at certain fundraising events. However, RSA requirements still apply to these events, including the need for persons serving alcohol to be RSA trained.

Liquor licence applications are determined by both the Independent Liquor & Gaming Authority board and Liquor & Gaming NSW.

Liquor licences are issued in the following categories:

Licence type	Licensed premises type
Hotel (including a general bar licence)	Required for a hotel, bar or tavern
Club	Required for registered clubs selling alcohol to members and their guests
On-premises	Can be tailored for one or more types of business activities including a restaurant, entertainment venue, motel, vessel, nightclub, function centre and other settings where alcohol is consumed on the premises with or ancillary to another product or service eg. for a restaurant, alcohol is sold and supplied with or ancillary to the provision of meals
Packaged liquor	Required to operate a liquor store or using the internet to sell packaged alcohol to the public
Producer/wholesaler	Required by a brewer, distiller, winemaker, wholesaler
Limited	Required for functions held by non-profit organisations or local councils, as well as special events and trade fairs
Small bar	Required for a small bar with a maximum of 100 patrons. No takeaway sales or gaming machines are permitted



Click [here](#) for more information on liquor licences

Trading hours

Alcohol can only be sold and supplied at times authorised by law.

The standard trading period for hotels, registered clubs established after 1 July 2008, on-premises licences (except vessels), and producer wholesalers is:

- ▲ **Monday – Saturday** 5am-midnight
- ▲ **Sunday** 10am-10pm

There may be an 11pm restriction applied to all take-away alcohol sales from those licences.

Standard packaged liquor licence trading hours are 5am to 11pm Monday to Saturday, and 10am to 10pm on Sunday.

The standard trading period for a small bar licence is midday until 2:00am Monday to Sunday, other than restricted trading days (Christmas Day and Good Friday) when the sale of alcohol is not permitted. However, after midnight trading is subject to a venue's local government development approval of consent.

Application can be made to the Independent Liquor & Gaming Authority for an extended trading authorisation to allow longer trading. However, most venues that are situated in areas where a liquor licence freeze is in place cannot apply for longer trading hours.

Public interest and licensed premises conduct

Serious problems can occur when licensed premises operate unlawfully and irresponsibly. These problems can affect the licensed premises, the neighbourhood, patrons and the community.

Problems at licensed premises can be linked to:

- ▲ a lack of understanding by the licensee and staff of trading entitlements and obligations;
- ▲ licensed premises being operated unlawfully eg. selling alcohol outside authorised trading hours;
- ▲ irresponsible serving practices;
- ▲ poor patron behaviour (which is often an outcome of irresponsible practices); and
- ▲ a lack of proper management and control of the licensed premises (which can lead to irresponsible serving practices and poor patron behaviour).

The NSW Police Force, Liquor & Gaming NSW and local councils can take action to deal with serious alcohol-related problems that have an adverse impact on the community.

Liquor & Gaming NSW can investigate complaints made by police, councils, residents and others, and impose conditions including trading hour restrictions and entry curfews.

Non-compliance with the liquor laws can be dealt with in several ways. At a basic level, Liquor & Gaming NSW or police can engage with licensed premises to provide assistance and advice on improving compliance. At the next level, licensees and their staff can be subject to action under the liquor laws, including the issuing of a penalty notice where offences are committed. Finally, disciplinary action can be taken by the Independent Liquor & Gaming Authority that can result in the suspension or cancellation of a liquor licence.

Noise and disturbance complaints

Police, councils, and residents can make a complaint about licensed premises noise or disturbance to L&GNSW.

Many noise and disturbance complaints stem from serious problems relating to the management and operation of the licensed premises, or violent, anti-social or criminal activity involving patrons in the vicinity of the premises. Disturbances and criminal activity, including violence involving patrons, can often be linked back to their levels of intoxication and the serving practices of the premises.

Where a complaint is established, conditions can be imposed on licensed premises to ensure the licensed premises does not impact on the local amenity, including conditions relating to:

- ▲ noise emission restrictions;
- ▲ additional security;
- ▲ a reduction in trading hours/entertainment; and
- ▲ drink and patron entry restrictions.

Disciplinary complaints

The Secretary, Department of Industry, local councils and the police can lodge a disciplinary complaint with the Liquor & Gaming NSW on a number of grounds, including:

- ▲ a breach of licence conditions;
- ▲ the licence not being exercised in the public interest — eg. allowing patrons to conduct irresponsible drinking competitions;
- ▲ intoxicated persons frequently being on or seen leaving the premises;
- ▲ the licensee/manager engaging in activities likely to encourage alcohol abuse — eg. irresponsible alcohol promotions such as all you can drink offers; and
- ▲ acts of violence involving patrons frequently occurring on or near the premises.

Where a disciplinary complaint is upheld, sanctions can be imposed, including the cancellation or suspension of the licence, and penalties of up to \$55,000 (for a corporate licensee) or \$22,000 (for an individual), or where aggravating circumstances exist, penalties of up to \$110,000 or \$44,000 respectively.

Short-term closure of licensed premises

The Independent Liquor & Gaming Authority, a magistrate or registrar of a Local Court or an authorised employee of the Department of Justice can order the closure of licensed premises for up to 72 hours where it is considered there is a threat to public health or safety, a risk of serious property damage, a significant threat to the environment, or a risk of serious offences being committed on the premises.

An application for a short-term closure of licensed premises can be made by the Secretary, Department of Industry or Commissioner of Police. The short-term closure provisions are used to address serious alcohol-related incidents, such as brawls and violence, as well as drug dealing and other criminal activity occurring on licensed premises.

In more extreme cases, closure orders can be made for up to six months.

Alcohol restrictions for violent licensed premises (Violent Venues Scheme)

Licensed premises with high levels of violent incidents are subject to a graduated system of restrictions. The restrictions apply where 12 or more violent incidents have been attributed to the licensed premises in 12 months.

Special licence conditions can include:

- ▲ mandatory 1:30am lock out of patrons (which prevents the entry or re-entry of patrons to the premises);
- ▲ no alcohol served 30 minutes prior to closing;
- ▲ no glass containers to be used after midnight;
- ▲ a ban on “shots” and other limits on drinks after midnight;
- ▲ ten minute alcohol time-outs every hour after midnight or active distribution of water and/or food; and
- ▲ extra security measures.

The list of licensed premises subject to these special licence conditions is updated twice a year, on 1 June (relating to incidents that occurred in the previous calendar year) and 1 December (relating to incidents attributable in the previous financial year).



Click [here](#) for more information about the Violent Venues Scheme

Kings Cross and Sydney CBD Entertainment precincts alcohol restrictions

Special licence conditions apply to licensed premises in both the Sydney CBD Entertainment and the Kings Cross precinct.

The restrictions that apply to licensed premises in these precincts include:

- ▲ Lock outs and last drinks: a 1.30am lock out and the cessation of alcohol sales at 3am applies at hotels, registered clubs, nightclubs and licensed karaoke bars. Small bars (maximum 100 people), most restaurants and tourism accommodation establishments are exempt. There also exemptions for venues offering live entertainment (to 2am and 3.30am respectively).
- ▲ Drink restrictions: Certain types of drinks must not be sold or supplied after midnight until closing, or for premises authorised to trade for 24 hours, until 7am. These include shots, drinks containing more than 50% spirits or liqueur, any 'ready to drink' beverage containing more than 5% alcohol, and any drink prepared on the premises containing more than 30ml of spirits or liqueur. This does not apply to small bars.



More information is available on:

[Kings Cross precinct](#) [Sydney CBD](#)

[Entertainment precinct](#)

Three strikes disciplinary scheme for licensed premises

The Three Strikes scheme targets persistent and serious non-compliance with the liquor laws. It allows strikes and significant penalties to be imposed where a licensee or an approved manager commits a serious offence under the liquor laws, such as permitting intoxication, or selling or supplying alcohol to an intoxicated person or a minor.

Strikes and penalties can be imposed upon conviction, payment of a penalty notice or the issue of an enforcement order and remain active for a period of three years.

A third strike for a licensee or approved manager can have serious consequences, including:

- ▲ disqualification of the person from being a licensee or approved manager (permanently or for a specified time); or
- ▲ suspension of the venue's licence for up to 12 months; or
- ▲ cancellation of the venue's licence and disqualification of the business owners from being granted a licence for up to 12 months.

For registered clubs, a third strike can result in the, disqualification of a club secretary or manager, dismissal of any or all of the club directors, and/or the appointment of an administrator to manage the club.

A range of licence conditions can also be imposed where strike is incurred, including to reduce the trading hours of the venue or require other remedial action to be taken to reduce the risk of alcohol-related harm.



Click [here](#) for more information on the Three Strikes Scheme

Intoxication and the law

Licensees and staff must ensure that patrons do not become intoxicated. An intoxicated person cannot be admitted to, or allowed to remain in, licensed premises, nor can they be served alcohol.

Intoxication defined

Intoxication is defined to assist industry comply with their responsible serving obligations and enhance enforcement efforts by police and inspectors.

A person is considered to be intoxicated if:

- ▲ the person's speech, balance, coordination or behaviour is noticeably affected; and
- ▲ it is reasonable, in the circumstances, to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of alcohol.

Guidelines have been issued to help licensees and staff to determine whether a person may be intoxicated. These guidelines are available at Schedule A.

The noticeable signs of intoxication include:

Signs	Description
Speech	The person is slurring words, talking in rambling or unintelligible sentences, incoherent or muddled speech.
Balance	The person is unsteady on their feet, is stumbling or bumping into people or objects, is swaying uncontrollably or cannot stand or walk straight.
Coordination	The person may be (for example) fumbling to light a cigarette, having difficulty in counting money or paying, spilling or dropping drinks, having difficulty in opening or closing doors.
Behaviour	The person is rude, aggressive, or offensive, is unable to concentrate or follow instructions, is boisterous or is pestering other patrons.

These guidelines recognise the need to form a reasonable belief that the person is intoxicated as a result of alcohol consumption. The guidelines also recognise that some medical conditions, disabilities or the use of drugs may cause similar behaviours without the person being intoxicated as a result of consuming alcohol.

Intoxication laws

If an intoxicated person is detected on the licensed premises, the licensee is taken to have permitted intoxication, unless it is proven that the licensee or staff:

- ▲ refused to serve the intoxicated person any more alcohol;
- ▲ asked the intoxicated person to leave the premises;
- ▲ if the intoxicated patron refuses to leave the premises contact, or attempted to contact to the police for assistance in removing the person is required.

Alternatively, a licensee would need to prove that:

- ▲ they took all of the steps set out in guidelines issued by the Secretary, Department of Industry, relating to the prevention of intoxication on licensed premises; or
- ▲ the intoxicated person did not consume alcohol on the licensed premises.

The Guidelines issued by the Secretary, Department of Industry include practical steps that licensees can take to manage the risk of intoxication.

Intoxication offences can also result in a strike being incurred under the three strikes disciplinary scheme. Where three strikes are incurred within three years, a licence can be suspended or cancelled.

More information on the common indicators of intoxication is outlined in element 4 of your Student notes.

Excluding patrons

Licensees and staff must ask an intoxicated person to leave the licensed premises immediately.

Refusal of entry and patron bans/barring

Licensees have a right to refuse entry or evict a person from their licensed premises. Under both the liquor laws and common law, a number of options are available to licensees to deal with troublesome patrons – ranging from refusing entry or removing a person at the time of the incident, barring the person for an extended period of time (from single or multiple premises), or requesting a banning order be issued against the person.

Care should be taken to ensure that when a person is refused entry or ejected from the licensed premises, either under the liquor laws or by common law, it is consistent with the *NSW Anti-Discrimination Act 1977* and NSW and Commonwealth discrimination laws.

[Refusal of Entry and Patron Bans/Barring guidelines](#) have been published by the Liquor & Gaming NSW to help licensees identify the best approach to deal with troublesome patrons, including those who are disruptive, violent, intoxicated, or who fail to follow the rules of licensed premises. These guidelines are available at Schedule D. The guidelines include step-by-step instructions for implementing these strategies, including instructions and resources for adopting a multi-venue barring strategy known as a "barred from one, barred from all" policy within a local liquor accord.

Liquor Act 2007

The licensee, their staff or security can refuse to admit or ask any person to leave the licensed premises:

- ▲ who is intoxicated, violent, quarrelsome or disorderly;
- ▲ whose presence renders the licensee liable to a penalty under the Act;
- ▲ who smokes within a smoke free area; or
- ▲ who uses or possesses a prohibited drug while on the premises.

Any person who is refused entry or asked to leave in the above circumstances can be barred by the licensee indefinitely.

If a person is refused entry or ejected from licensed premises because they are intoxicated, violent, quarrelsome or disorderly, or for smoking in a smoke free area, or for possessing or using an illicit substance, an offence is committed if they:

- ▲ attempt to re-enter the premises within 24 hours;
- ▲ remain in the vicinity of the premises (ie. within a radius of 50 metres from the boundary of the licensed premises) without a reasonable excuse, such as waiting for transport, fearing for their safety or the person resides in the vicinity; or
- ▲ re-enter the vicinity of the premises within six hours without a reasonable excuse.

An offence can result in a \$550 penalty notice or a maximum court fine of \$5,500.

If police are continually called to the same premises to assist in removing drunken patrons or enforcing the fail to leave offence, a disciplinary complaint can be taken on the ground that intoxicated persons have frequently been on the premises, or have been seen frequently leaving the premises.

In these instances, police could obtain evidence to determine whether the patron was intoxicated while alcohol was still being served to that person, and what steps, if any, were taken at the time by staff to remove the patron. This enables police to consider taking disciplinary action against the licensed premises (or its staff) for intoxication offences, or action against the patron for failing to leave.

Banning orders

While barring strategies are generally sufficient to deal with disruptive patrons, licensees also have the option to apply for a formal banning order.

These orders can mean that a person who has been repeatedly intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises can be banned for up to six months from multiple licensed premises.

The Independent Liquor & Gaming Authority determines whether or not to make a banning order. Applications for a banning order may be made by Liquor & Gaming NSW (under delegation from the Secretary, Department of Industry), NSW Police, or a licensee who is a local liquor accord member. A person named in a banning order must not enter, attempt to enter or remain on, the licensed premises.

Sydney CBD and Kings Cross precincts banning orders

Police can issue a person with a temporary banning order that applies for up to 48 hours, preventing them from entering most licensed premises in the precincts. Long-term banning orders can be issued by the Independent Liquor & Gaming Authority for up to 12 months in more serious cases.

Voluntary exclusions

The liquor laws allow people with a drinking problem to voluntarily exclude themselves from licensed premises.

The person enters an agreement with the licensee allowing the licensee, or a responsible member of staff, to prevent the patron from entering the licensed premises. Licensees are obliged to comply with a request for self-exclusion from licensed premises.

Common law

The liquor laws recognise a licensee's common law right to exclude or evict a person from their licensed premises. Under common law, a patron has an implied licence to enter and remain on the premises – which the licensee can revoke at any time.

Common examples of the use of these rights is through the enforcement of dress codes, voluntary lock outs or barring patrons for behaviour which occurred at another premises or outside the licensed premises. Essentially, licensees can revoke a person's implied common law invitation to enter the premises for any reason, provided it is not discriminatory.

If a patron refuses to comply with a common law request to leave a licensed premises, they are committing an offence under the *Inclosed Lands Protection Act 1901*, and could also be exposed to civil liability for trespass.

Click [here](#) to access the Liquor & Gaming NSW fact sheet – Refusal of entry and patron bans/barring

Entry into licensed premises by minors

The liquor laws allow minors to enter most licensed premises under certain circumstances. However, it is an offence to sell or supply alcohol to a person who is under 18 years of age (a minor) on licensed premises.

Evidence of age

All licensed premises must check [evidence of age](#) documentation to ensure that patrons being served or supplied alcohol are over 18 years of age. Evidence-of-age documents must be current, and include a photograph of the person as well as the person's date of birth.

Checklist for evidence of age

- ▲ Check the photo does it match the person?
- ▲ Check the birth date does it confirm the person is over 18 years?
- ▲ Check for any alterations have any numbers been altered particularly the last digit of the date of birth?
- ▲ Check the hologram for the NSW driver licence and photo card.

Staff should refuse admission to anyone if they are suspected of using false evidence of age documents.

If in doubt, ask for a secondary form of ID

More information on evidence of age documentation is discussed in element four.

Responsible adult

A responsible adult is defined as a person who is over the age of 18 years and is:

- ▲ a parent, step-parent or guardian of the minor;
- ▲ the minor's spouse or de facto partner; or
- ▲ for the time being, standing in as the parent of the minor.

A person standing in as a parent could include a relative such as a grandparent, aunt/uncle, or a person in charge of an organised sporting or school group.

Hotels

While most parts of a hotel are a bar or gaming machine area (and minors are not permitted under any circumstances in these areas), there are some areas where a minor can enter, provided certain conditions are met.

For instance, an unaccompanied minor is allowed to be in the dining room of a hotel, or in the accommodation area of the hotel. The hotel may also have an area known as a minors area approved for use by minors (in the company of a responsible adult) such as a bistro or lounge area.

Registered clubs

Minors are prohibited from being in certain parts of a registered club such as bar and gaming machine areas. However, like hotels, there are circumstances where minors may be in a registered club if certain conditions are met.

A registered club can obtain a:

- ▲ club functions authorisation – which allows minors and non-members to attend certain functions;
- ▲ junior members authorisation – which allows junior members to attend sporting-related activities or prize-giving ceremonies associated with sporting activities; and
- ▲ non-restricted area authorisation – which allows minors to enter a part or parts of the club.

Walk through defence

A 'walk through' defence exists where a minor passes through a bar area in the company of a responsible adult to access another area of the hotel or club that the minor is lawfully allowed to enter.

Other defences also include where the minor:

- ▲ is an apprentice or trainee and was in the bar area receiving trade training;
- ▲ was over 14 years of age, and produced to the licensee (or an employee or agent of the licensee) documentary evidence (eg. a driver licence, passport, Photo Card or Keypass identity card etc.) that could reasonably indicate that the minor was over 18 years of age.

Other premises

Premises type	Restrictions applying to minors on the premises
Small bar licence	Minors are not permitted on the licensed premises when alcohol is authorised to be sold.
On premises licence	In most cases, no restrictions apply. The exception is where the on premises licence relates to a public entertainment venue ie. a nightclub, where minors must be in the company of a responsible adult.
Packaged liquor licence	No restrictions apply.
Limited licence	No restrictions apply.
Producer/wholesaler licence	No restrictions apply.

Supply alcohol to a minor

There is a general prohibition on the supply of alcohol to a person who is under 18 years of age (a minor) in a licensed premises. Those liable for the offence of supplying alcohol include the licensee, staff, and other patrons, including minors (where alcohol is supplied to other minors).

Penalties of up to \$11,000 and/or 12 months imprisonment (or \$1,100 penalty notices) apply to adults convicted of underage alcohol supply offences. Minors are also liable for the offences of obtaining and drinking alcohol on licensed premises. These offences carry maximum court penalties of \$2,200 (or a \$220 penalty notice).

Statutory defences for the offence of selling or supplying alcohol, or allowing alcohol to be sold or supplied, to a minor on licensed premises are available to a licensee in certain circumstances. The statutory defences are:

- ▲ if the minor was over 14 years of age, and produced to the licensee (or an employee or agent of the licensee) documentary evidence (eg. a driver licence, passport, Photo Card or Keypass identity card etc) that could reasonably indicate that the minor was over 18 years of age; or
- ▲ if the alcohol is supplied to a minor by their parent or guardian.

Escalating sanctions regime

An escalating regime of sanctions applies where the offence of selling alcohol to a minor has occurred on licensed premises. Significant sanctions can apply, including automatic cancellation of a licence, where three offences occur in 12 months.

For a first offence, a licensee is given the opportunity to explain why their licence should not be suspended for up to 28 days. In considering whether to suspend a licence, the Independent Liquor & Gaming Authority may take into consideration the compliance history and other factors relating to the licensed premises.

If a second offence is committed within 12 months of the first offence (and more than 28 days after the first offence), the licence is automatically suspended for 28 days.

A licence is automatically cancelled and the licensee disqualified from holding a licence for 12 months where a third offence occurs more than 28 days after the second offence, but within 12 months of the first offence.

Second party sales

Second party sales (or secondary supply) occurs when a person purchases alcohol on behalf of a minor. The person supplying the alcohol to the minor (either on licensed premises or elsewhere) is committing an offence which can attract fines of up to \$11,000 and/or 12 months imprisonment (or a \$1,100 penalty notice).

It is a defence if the person who sold or supplied alcohol to a minor is the minor's parent or guardian, or if that person has been authorised to do so by the minor's parent or guardian. However, this defence does not apply to the sale or supply of alcohol on licensed premises.

Remote sales

The remote alcohol sales provisions of the liquor laws apply to alcohol sold to the public via the internet, telephone, facsimile and mail orders. These provisions recognise that remote alcohol sales, particularly online sales, are a potential source of supply for minors and that extra controls are needed.

For remote alcohol sales, the law requires the display of:

- ▲ the liquor licence number in any published or electronic advertising; and
- ▲ the liquor licence number and the statutory notice (stating the offence of supplying alcohol to a minor) on the website where alcohol is being sold.

When taking a telephone, facsimile or mail order, the licensee must ensure that the prospective buyer provides a date of birth to confirm that the client is an adult (unless the details have been provided when placing a previous order).

The licensee must give written instructions to the person delivering the order, such as a courier, requiring the alcohol to be delivered:

- ▲ to the adult who placed the order (include their name in the instructions);
- ▲ to another adult at the delivery address accepting the delivery on behalf of the adult who placed the order; or
- ▲ If the delivery is made on a day after the day the order is taken, or the sale was made online, in accordance with the customer's instructions (such as delivery to another address).

Maximum penalties of \$2,200 apply if a licensee does not provide these written instructions. Maximum penalties of \$3,300 apply to a person who requests a minor to take delivery of a remote sale. Maximum penalties of \$2,200 apply if a minor takes delivery of a remote sale.

Minors selling and supplying alcohol

In most cases, the law prohibits minors from selling, supplying or serving alcohol on licensed premises. A minor cannot take an order for, or deliver, alcohol to patrons.

The law does not stop minors from doing other things within areas of licensed premises where minors are permitted. This can include stocking shelves in a bottle shop or serving meals or taking food orders in a restaurant.

The Independent Liquor & Gaming Authority can approve of a minor serving alcohol on licensed premises. However, approval would normally only be granted in very limited circumstances, and would be subject to stringent supervisory conditions. For example, approval may be given for a 17-year-old to work with their parent or guardian at certain times in an area of a hotel where minors are permitted.

Maximum penalties of \$5,500 apply to a licensee if a minor sells, supplies or serves alcohol without approval.

Signage

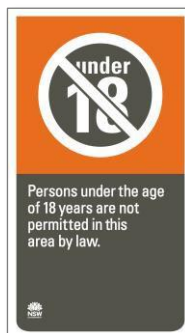
The liquor laws require licensees to display certain signs in their licensed premises. Maximum court penalties of \$2,200 apply for not displaying statutory signs.

Mandatory



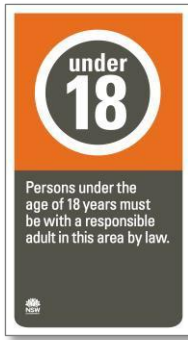
Sign 1L: Under 18s not to be served alcohol – all premises

This sign must be displayed wherever alcohol is sold on licensed premises i.e. at each bar and counter. Where there is no bar or counter (e.g. a restaurant), the sign must be prominently displayed at or near each entrance of the premises.



Sign 2L: Bar areas of hotels and clubs, and gaming machine areas of clubs

This sign must be visible from each entrance to each bar area of a hotel or club. A bar area is any area of a hotel or club where liquor is served – but does not include those areas where under 18s are allowed by law e.g. a dining area, an accommodation area in a hotel, an authorised minors area in a hotel, or a non-restricted area in a registered club. This sign is also required to be displayed in each gaming machine area of a club.



Sign 3L: Under 18 authorisation sign – hotels and public entertainment venues

This sign must be visible from each entrance to areas of a hotel where a minors area authorisation is in place. A minors area authorisation allows under 18s into an area of a hotel in the company of a responsible adult. In the case of an onpremises licence that relates to a public entertainment venue (not a cinema or theatre), this sign must be visible from each entrance to any area where entertainment is provided.



Sign 4L: Breath testing sign – premises with breath analysis machines

This sign must be clearly displayed on or next to a breath analysis machine, where one is installed.



Sign 5L: PSA sign – Restaurants with a primary service authorisation

This sign must be displayed at or near every entrance to the restaurant to alert people entering that a primary service authorisation applies. A primary service authorisation allows liquor to be sold/supplied without another product or service, such as a meal.



Sign 6L: Under 18s not permitted during liquor trading hours – small bars

This sign applies to small bar licences and must be displayed so that it can be seen by a person entering the premises

Other



Sign 8L: Front of premises sign – all premises

A sign must be displayed at the front of the premises that shows the name of the premises, the type of liquor licence held and the name of the licensee. On-premises licences must also indicate the type of business or activity carried out on the premises e.g. restaurant, and for Hotels designated as a general bar, it must indicate that it is a general bar licence. The sign must be displayed so that it can be read by a person from outside of the front of the premises.

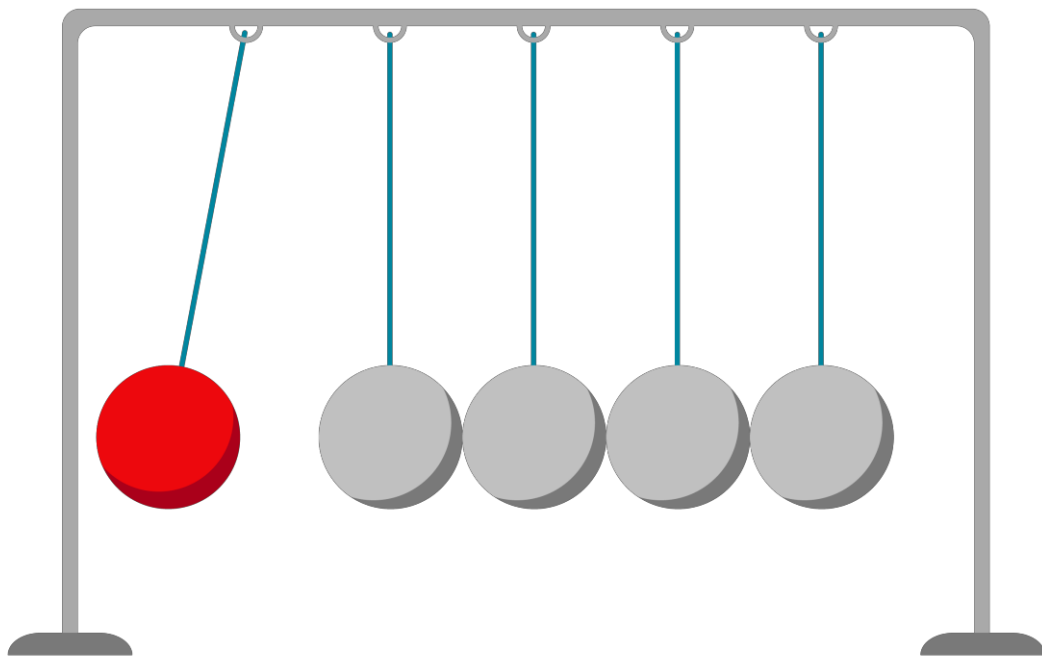
Sign 5L-A: PSA sign – Premises with a primary service authorisation (other than a restaurant)

A sign must be displayed at or near every entrance to the premises to alert people entering that a primary service authorisation applies. For details on the wording and approved format of the sign for these venues, licensees can contact the Customer Service team at Liquor & Gaming NSW on 1300 024 720.

Sign 7L: Alcohol not be sold to under 18s sign – all internet operators

A notice with the same wording as Sign 1 must be displayed wherever alcohol is sold via the Internet. The text must be large enough to ensure that a person accessing the Internet site would be alerted to the contents of the notice.

Element 3 – Impact of alcohol



Identify the impact of alcohol abuse

This element addresses the impact of alcohol and includes safe levels of drinking, standard drinks and the impact of alcohol consumption (short and long-term).



Assessment criteria

Students should be able to identify:

- ▲ Low-risk drinking guidelines;
- ▲ Short and long-term effects of alcohol; and
- ▲ Standard drinks.

Impact of alcohol

Community health and alcohol

People drink alcohol for a variety of reasons, including the experience of relaxation, peer pressure, the social experience and to reduce their inhibitions.

Alcohol dampens the brain's arousal, motor and sensory centres, affecting coordination, speech, cognition and the senses. The first potentially adverse effect of alcohol consumption is loss of fine motor skills and inhibitions.

A blood alcohol concentration (BAC) of 0.05 g/100ml (or 0.05%) is the legal limit for driving in Australia. Above this BAC, performance, behaviour and physical health deteriorate progressively.

If the BAC reaches an extreme level, it can lead to unconsciousness and may be fatal. For example, a person may vomit and can ingest their vomit and suffocate.

Alcohol also affects the pituitary gland at the base of the brain, suppressing the production of a hormone that keeps the body's fluid reserves in balance. The kidneys fail to reabsorb an adequate amount of water, and the body excretes more water than it takes in, leaving the person dehydrated and with a headache.

As both skills and inhibitions decrease through the effects of alcohol consumption, and the potential for risky behaviour, injuries and trauma increases.

The immediate effects of alcohol on the brain are often less apparent in people who drink regularly, as they display a degree of tolerance to the effects of alcohol. Tolerance means that more alcohol needs to be consumed to feel the effects of the alcohol. Tolerance occurs because the liver becomes more efficient at breaking down alcohol. Despite this tolerance, the long-term effects remain damaging, particularly as the drinkers who have greater tolerance for alcohol are those who subject themselves to higher blood alcohol levels more frequently.

Drinking a small amount of alcohol is not harmful for most people, but excessive drinking can cause health, social and personal problems. Women are generally affected by alcohol more than men because of the differences in the way their bodies process alcohol.

Alcohol can become addictive and research shows that alcohol is second only to tobacco as a preventable cause of death and hospitalisation in Australia. Alcohol can also have social and economic consequences such as contributing to violence, crime and anti-social behaviour in the community.

Basically, the more alcohol that is consumed, the higher the risk of harm.

People choosing to consume alcohol should be aware that there are potential short and long-term harms to their health and social wellbeing.

The impact of alcohol consumption

There are short and long-term impacts on both the consumer and the community from alcohol consumption.

Short-term impacts of alcohol refer to the risk of harm associated with drinking on a single day. These risks include accidents, injury and violence.

Long-term impacts refer to the health risks of drinking at harmful levels, which can be compounded by the effects of smoking, poor diet and other drugs.

Short-term impacts

Short-term impacts refer to the risk of harm (particularly injury or death) in the short-term that is associated with given levels of drinking on a single day. These levels assume that overall drinking patterns remain with the levels set for long-term risks, and that these heavier drinking days occur infrequently and never more than 3 times a week. Outside these limits, risk is further increased.

These are some of the short-term health consequences of excessive drinking on a single day:

- ▲ Risk taking behaviour, accidents, falls, reduced coordination, altered thinking and speech and at the highest level unconsciousness. Alcohol is a contributor in a number of accidental deaths, including road death and drowning.
- ▲ Aggravated sleep, stress and sexual functions. The consumption of moderate amounts of alcohol is seen as a method to minimise stress and induce sleep. However, it does not address the real cause of the stress and leads to increased wakefulness and disturbed sleep patterns.
- ▲ Heart problems. One or two standard drinks can affect heart rate, blood pressure and heart muscle contraction. This reaction may not be clinically important but the overall effect on blood flow may have negative implications on persons with cardiovascular disease.

Long-term impacts

Long-term impacts refer to the risk of harm due to regular daily patterns of drinking, defined by the total amount of alcohol typically consumed per week. The long-term consumption of alcohol is a serious contributor to ill health in our society and can be compounded by the negatives effects of smoking, poor diet and other drugs.

Certain levels of alcohol consumption over a long period of time increases the risk of developing certain disorders.

Following are some of the long-term consequences of excessive drinking over a long period of time:

- ▲ Range of diseases affecting the heart disease and blood, and including stroke and hypertension.
- ▲ Cirrhosis of the liver.
- ▲ Cancer, especially of the mouth, throat and oesophagus.
- ▲ Cognitive problems and dementia.
- ▲ Problems with the nerves of the arms and legs.
- ▲ Gut and pancreas disease.
- ▲ Harm to unborn baby.
- ▲ Sexual problems, especially male impotence.
- ▲ Alcohol dependence.
- ▲ Alcohol related brain injury.
- ▲ Problems with memory and reasoning.

Factors influencing the effects of alcohol

People are affected by alcohol in different ways. Factors that influence the effects of alcohol include the following:

Gender

Women tend to have a smaller body size and a higher proportion of body fat than men. For women, a given amount of alcohol is distributed over a smaller body volume with less absorption as alcohol is not taken up by fatty tissues. In addition, the ability to break down alcohol is limited by the size of the liver, and women on average have a smaller liver than men. However, the higher level of risk-taking behaviour among men means that, over a lifetime, male risks exceed female risks for a given pattern of drinking.

Age

In general, the younger and smaller a person is, the less tolerant they are to alcohol. Younger people also have less experience with drinking and its effects. In addition, puberty is often accompanied with risk-taking behaviours (such as an increased risk of drinking, sometimes in association with dangerous physical activities or risky sexual behaviour).

Also, as people age, their tolerance for alcohol decreases and the risk of falls, driving accidents and adverse interactions with medications increases.

Mental health and sleeping patterns

People who are prone to mental illnesses such as anxiety, depression and schizophrenia may aggravate their illness by drinking alcohol.

Alcohol can also disrupt the later part of the sleep cycle, which may trigger a variety of mental health problems in people who are already prone to these conditions.

Medication and drug use

Drinking alcohol while taking any other drug can be dangerous. Alcohol can interact with a wide range of prescription and non-prescription medications, herbal preparations and illicit drugs. This can alter the effect of the alcohol or the medication and has the potential to cause serious harm both to the drinker and to others.

Specific health conditions that are made worse by alcohol

People who already have health conditions caused or aggravated by alcohol are at risk of the condition becoming worse if they drink alcohol. Conditions such as a dependence on alcohol, cirrhosis of the liver, alcoholic hepatitis or pancreatitis prevent the body from processing the toxins from alcohol as efficiently as it should.

Family history of alcohol dependence

People who have a family history of alcohol abuse and dependence (particularly among immediate relatives such as a parent or a sibling), have a substantial increased risk of developing a dependence themselves.

Alcohol and other drugs

Alcohol belongs to the depressant category of drugs because it affects the central nervous system and causes it to function in a different way. Combining alcohol with any other drug can be dangerous or cause discomfort. The negative effects of one drug may be greatly increased by the other. Combining alcohol and other drugs can also reduce the effectiveness of medications such as antibiotics.

Mixing alcohol with other drugs that act as a depressant eg. sleeping pills, heroin, cannabis and methadone can:

- ▲ make it harder to think clearly;
- ▲ make it harder to coordinate movement; and
- ▲ compound the risk of a fatal overdose from respiratory failure.

Certain drugs, such as stimulants, may mask the effect of alcohol and cause a person to feel that they're not intoxicated. This can place that person at risk of injury as they may feel over-confident and think that they are fine even though they may be intoxicated.

For more information visit NSW Health -

<http://www.health.nsw.gov.au/aod/resources/Pages/fact-sheets.aspx>Reducing health risks

Reducing Health Risks

Many people drink alcohol for enjoyment at levels that cause few adverse effects. However there are some who drink at levels that increase their risk of alcohol-related harm.

The National Health and Medical Research Council (NHMRC) guidelines enable people to make informed decisions about the amount of alcohol that they choose to drink. They go beyond looking at the immediate risk of injury and the cumulative risk of chronic disease, to estimating the lifetime risk of alcohol-related harm.

The guidelines relate to:

- ▲ reducing the risk of alcohol-related harm over a lifetime
- ▲ reducing the risk of injury on a single occasion of drinking
- ▲ children and people under 18 years of age
- ▲ pregnancy and breast feeding.

Element 4 – Preventing intoxication and underage drinking



Implementing responsible service of alcohol strategies

This element identifies those strategies used to reduce the harm associated with liquor abuse.



Assessment criteria

Students should be able to describe:

- ▲ indicators of intoxication;
- ▲ strategies for preventing intoxication; and
- ▲ strategies for preventing underage drinking, and second party sales (including evidence of age).

Preventing intoxication and underage drinking

Signs of intoxication

Intoxication guidelines issued by the Secretary, Department of Industry, provide information for industry to assist in determining whether a person is intoxicated (see Schedule A).

Noticeable signs for determining whether a person may be intoxicated include the following:

Behaviour	<u>Speech</u>	<u>Coordination</u>	<u>Balance</u>
Rude	Slurring words	Lack of coordination	Unsteady on feet
Aggressive	Rambling or unintelligible conversation	Spilling drinks	Swaying uncontrollably
Belligerent	Incoherent or muddled speech	Dropping drinks	Staggering
Argumentative	Loss of train of thought	Fumbling change	Difficulty walking straight
Offensive	Not understanding normal conversation	Difficulty counting money or paying	Cannot stand, or falling down
Bad tempered	Difficulty paying attention	Difficulty opening or closing doors	Stumbling
Physically violent		Inability to find one's mouth with a glass	Bumping into or knocking over furniture or people
Loud/boisterous			
Confused			
Disorderly			
Exuberant			
Using offensive language			
Annoying/pestering others			
Overly friendly			
Loss of inhibition			
Inappropriate sexual advances			
Drowsiness or sleeping at a bar or table			
Vomiting			
Drinking rapidly			

A degree of judgement is still required in determining whether a person is intoxicated, or approaching the point of becoming intoxicated. In exercising that judgement, other factors should also be considered, such as the amount and types of alcohol served to a patron, and the time over which the consumption of alcohol took place.

Care must be taken to establish if there are other causes, such as a medical condition or disability, which may cause signs or symptoms similar to intoxication. This requires thoughtful observation of patrons by all staff.

Observations of patrons may also consider:

- ▲ if the person is affected by alcohol when they arrive;
- ▲ if a person smells of alcohol;
- ▲ the time they entered the premises;
- ▲ the length of time they have been drinking; and
- ▲ the type and amount of alcohol consumed.

Sobering up

Patrons who are approaching intoxication may try to convince management and staff of their instant 'sobering up' techniques. However, there is no quick way to sober up. Sobering up, or reducing alcohol in the body takes time. About 10 per cent of alcohol leaves the body in breath, sweat and urine, with most alcohol broken down by the liver. The liver can only eliminate about one standard drink per hour. Nothing can speed up this process, not even fresh air, exercise, coffee, vomiting, or cold showers.

Preventing intoxication

Licensees can implement a variety of strategies to prevent intoxication, including monitoring of patrons, offering alternative drink and food, and implementing a range of restrictions for the purchase of alcohol.

Slowing down the service of alcohol is another strategy adopted by some staff and managers. It can be as simple as asking patrons if they would like another drink rather than automatically refilling glasses.

Steps that can be taken to prevent intoxication

[Prevention of Intoxication on Licensed Premises](#) guidelines have been issued by the Secretary, Department of Industry

They contain practical steps to manage the risk of intoxication on licensed premises.

While implementation of these steps is not mandatory, it is recommended, as the steps provide evidence of what a licensee has done to minimise the risk of intoxication. These steps can also be relied upon, if necessary, to establish that intoxication was not permitted on the licensed premises.

Refusal of service

Licensees and staff must refuse alcohol service to minors and people who are intoxicated, disorderly or violent. Licensees must also develop procedures to assist staff in managing the refusal of service and compliance with the law.

A person can be refused to enter licensed premises or as they attempt to purchase alcohol. Once refused entry or service, these persons should be asked to leave the premises. If the person refuses to leave the licensed premises NSW Police should be contacted.

Refusing service helps improve the safety of the licensed premises, especially where any further consumption of alcohol may place other patrons and staff at risk. It also reduces the potential risk of litigation for the licensee.

Refusing service or entry

There are various techniques that can be used when refusing service or entry, including:

- ▲ introducing yourself to the person and ask their name;
- ▲ speaking to the person in a friendly and respectful manner;
- ▲ when talking to the person, refer to them by name where possible; using short, simple sentences; avoiding emotion and involved discussions;
- ▲ making a clear statement (pointing out signage) that by law, the person cannot be served any more alcohol or be allowed to remain on the licensed premises;
- ▲ notifying the manager or security, who can ask the person to leave;
- ▲ notifying other bar staff that service has been refused to the person; and
- ▲ recording any incidents relating to refusal in the licensed premises incident register.

Preventing underage drinking

It is illegal to sell or supply alcohol to a minor on licensed premises. Licensees and staff should take a proactive approach to help prevent underage drinking.

It is essential that licensed premises focus on properly checking proof of age documents to prevent minors gaining access to alcohol.

Licensees should adopt policies to check proof of age, such as:

- ▲ requiring any person appearing under 25 years of age to produce age identification;
- ▲ close scrutiny to check the authenticity of identification produced; and
- ▲ only accepting forms of identification recognised by the NSW liquor laws.

An incident register should be maintained to record instances where minors were refused entry to the premises, or where police were called because of concerns about the authenticity of the evidence of age produced.

The information in the register can then be used to determine if the licensed premises underage strategy is effective and, if needed, to take any necessary steps to improve the strategy. This may include joining a liquor accord or, if the licensee is already an accord member, raising the issue at the next accord meeting.

Saying 'no' to underage drinkers

Here are four basic steps that licensed premises can take to stop minors gaining access to alcohol.

▲ Step 1 - Be alert and proactive

Regular monitoring of the licensed premises and the vicinity of the premises. If there's a group of youngsters loitering outside, a quiet word will often be enough to send them on their way.

▲ Step 2 - Stand your ground

Inform the customer that the liquor licence is at risk if alcohol is served to a minor. A refusal can embarrass a customer, so be tactful and professional. If faced with a group, move the person that is being spoken to away from the group.

▲ Step 3 - Avoid blame

Politely stress the legal obligations when refusing to serve someone or not allowing them on the premises. If asking for identification to establish a person's age, confirm it's the policy of the premises to make this request of anyone where a person's age is in doubt.

▲ Step 4 - Ask for evidence of age

If you suspect someone of being underage, politely ask for identification – such as a NSW Photo Card, a driver licence, passport or KeyPass Identity Card

Preventing second party / secondary supply sales

It is unlawful to buy or obtain alcohol on behalf of a minor on licensed premises.

It is often difficult to detect a second party sale. Therefore, care must be taken by staff to identify potential second party sales to prevent alcohol being supplied to minors.

In NSW, parents and guardians cannot give permission for alcohol to be served to their underage children on licensed premises. Care must be taken to ensure that minors, including those in the company of a responsible adult, are not supplied alcohol on licensed premises.



Click [here](#) to access the Stop the Supply campaign

Evidence of age

Licensees, staff, police and Liquor & Gaming NSW inspectors can require a young person to produce identification to verify their age. A person commits an offence where they fail to produce prescribed evidence of age or refuse to provide their details.

Acceptable forms of evidence of age

If a person who appears to be under 25 years of age attempts to enter licensed premises or to buy alcohol, evidence of age should be requested. The acceptable evidence of age documents are:

- ▲ a NSW motor vehicle driver or rider's licence or permit, or a licence or permit issued by another state or territory or under the law of another country;
- ▲ a NSW Photo Card;
- ▲ a proof of age card issued by a public authority of the Commonwealth or of another state or territory; or
- ▲ an Australian or foreign passport.

All acceptable forms of evidence of age must contain a photograph and date of birth. Door and bar staff should check the authenticity of the identification being offered and examine it in proper light. If it is suspected that the patron's ID could be false, ask for secondary identification.

Secondary identification

If necessary, ask for secondary identification which could include a:

- ▲ corporate ID card;
- ▲ current credit card; or
- ▲ current entitlement card issued by a state or commonwealth government department – eg. Medicare Card.

Tips for checking evidence of age

Regardless of what document you accept, it is important your licensed premises has practices in place to assist with evidence of age documents. Tips for establishing if a document is genuine may include:

- ▲ examine the document in a well-lit area where alterations will be spotted more easily;
- ▲ do not inspect the document through the window face in a person's wallet – ask them to remove it;
- ▲ take the document from the patron and take your time examining it;
- ▲ make sure the document includes a hologram or other security feature;
- ▲ compare the photo with the patron presenting the document – do they match? Pay particular attention to distinguishing facial features;
- ▲ feel around the photo, birth date and edges of the card, especially a card enclosed in plastic (laminated) – wrinkles, bumps and air bubbles could mean the document has been altered;
- ▲ calculate that the date of birth on the document does in fact confirm the person is at least 18;
- ▲ Use a UV/black light if you have one to help identify false or altered IDs.

Remember: photo cards, driver licenses, RSA Competency Cards, KeyPass and passports can be issued to persons under 18 years of age.



For more information visit:

<http://www.liquorandgaming.nsw.gov.au/Pages/liquor/underage-drinking/evidence-of-age.aspx>

Liquor accords

Liquor accords implement specific responsible service of alcohol and responsible drinking strategies in a group of local licensed premises. A liquor accord is an agreement – or arrangement – reached between local stakeholders who are committed to minimising harm associated with alcohol abuse ie. improving safety and reducing alcohol-related violence and anti-social behaviour.

Accords operate to identify practical solutions for local alcohol-related problems. They are underpinned by the responsible serving principles of the liquor laws and can be an important best practice harm minimisation strategy.

Liquor accords provide another means, beyond regulatory measures, of addressing alcohol-related issues in a community. They reach agreements on ways to improve the operation and safety of licensed premises. Liquor accords include representatives of licensed premises, as well as local councils, police, government departments and other community organisations.

Accords can add value by adopting programs to:

- ▲ improve patron awareness of the responsible serving laws;
- ▲ prevent underage drinking, and in particular, second party sales; and
- ▲ provide a coordinated approach for patron transport from local licensed premises late at night.

Well run accords can bring about genuine benefits including:

- ▲ safer and more welcoming local neighbourhoods;
- ▲ enhanced local reputations for concerned and active licensees;
- ▲ an improved business environment;
- ▲ constructive working relationships between licensees, councils, patrons, residents and police;
- ▲ improved compliance with the liquor laws;
- ▲ reduced under-age drinking;
- ▲ reduced anti-social behaviour and crime; and
- ▲ reduced alcohol-related violence.
- ▲



For more information visit:

<http://www.liquorandgaming.nsw.gov.au/Pages/liquor/underage-drinking/evidence-of-age.aspx>

Drink spiking

Drink spiking occurs when a person adds alcohol or another drug to another person's drink without their knowledge or consent. An offender may be the victim's friend, acquaintance, work colleague, date or a stranger.

Drink spiking is a crime and any apparent drink spiking incidents should be reported to police. An incident register can be used to record details of drink spiking and can be useful to police and others for reference.

Alcohol is the drug most commonly used to spike drinks as it is relatively cheap, legal and easily available. In many instances, alcohol is added to drinks without suspicion. A person may not easily detect relatively tasteless alcohol, such as vodka, when it is added to their drink.

The most common physiological effects attributed to drink spiking are vomiting, unconsciousness, poor coordination and balance, slurred speech, lowered inhibitions, drowsiness, dizziness, loss of motor skills, impaired judgment, visual problems and nausea. These symptoms are also commonly associated with intoxication.

Preventing drink spiking in licensed premises

- ▲ Always remove unattended glasses.
- ▲ Watch out for suspicious patron behaviour and any instances of sudden intoxication.
- ▲ Report suspicious patron behaviour to a supervisor.
- ▲ Decline and report any patron requests to add alcohol to another person's drink.

Response

Duty managers and licensees should follow the response steps below:

- ▲ Treat drink spiking incidents seriously and take action;
- ▲ Call an ambulance if the victim is unconscious or ill;
- ▲ Advise the victim to seek medical attention if an ambulance is not called;
- ▲ Do not leave the person alone;
- ▲ Make sure the victim is in a safe place, such as a staff area or a quiet place in the licensed premises;
- ▲ Preserve the table with glass/es and drink/s as if it was a crime scene. If possible, appoint a senior staff member to stay next to the table and make sure nothing is touched;
- ▲ Contact the police on 000 or 112 on mobiles;
- ▲ Immediately record the details in your incident register; and
- ▲ Preserve CCTV footage.

TIP: Liquor & Gaming NSW have developed the Party Right campaign to tackle this issue. Click [here](#) to access the resources for use in your venue

Plan of Management

A plan of management provides a framework for both patrons and staff in understanding the responsible serving principles adopted by the licensed premises management. It can be used to reinforce acceptable serving practices of the licensed premises.

A good plan of management is a statement, or a series of statements reflecting the principles implemented by the licensed premises and can cover such things as:

- ▲ not serving minors or intoxicated patrons;
- ▲ not conducting irresponsible alcohol promotions;
- ▲ ensuring quality food is always available;
- ▲ promoting safe transport options to patrons;
- ▲ offering discounted non-alcoholic drinks;
- ▲ the licensed premises approach to dealing with problem patrons; and
- ▲ restricting the types of drinks sold after midnight.

It is important that staff implement responsible serving practices that they have learnt from their training. Staff meetings, incident logs, the review of particular incidents, and positive reinforcement of staff observed adopting responsible serving practices assists in this process.

Management should:

- ▲ state their expectations of performance;
- ▲ give staff authority to make decisions and support these decisions; and
- ▲ consider how to reinforce staff behaviour.

When staff members are confident that they will be backed up by management, they will be more comfortable with the concept of the responsible service of alcohol.

Incident registers

An incident register allows licensed premises to record incidents involving anti-social behaviour or violence and patrons being removed from the premises under the liquor laws.

All licensees of licensed premises are encouraged to maintain an incident register at all times. They are a useful compliance tool, and can form part of a licensed premises responsible management and/or liquor accord practices.

Incident registers can be in the form of a book or an electronic device such as an ipad.

A licensee who maintains an incident register at all times will gain a better and more detailed understanding of events that may impact adversely on the safety of their licensed premises and patrons. It will also help them to develop appropriate strategies to reduce the risk of alcohol-related violence and anti-social behaviour at the premises, as well as improving responsible service of alcohol practices. Maintaining an incident register is mandatory for:

- ▲ late trading premises authorised to sell liquor after midnight, with incidents required to be recorded that occur outside the standard trading period ie. 5am – midnight (Monday – Saturday) and 10am – 10pm (Sunday);
- ▲ declared premises under the violent venues scheme, requiring the licensee to record any incidents that occur at any time when the licensed premises is trading;
- ▲ limited licences, requiring the licensee to record any incidents that occur between midnight and 5am; and
- ▲ licensed premises in the Sydney CBD Entertainment and Kings Cross precincts, requiring the licensee to record any incidents that occur at any time when the licensed premises is trading.

Safe transport options

Providing safe transport options to patrons is an important element of harm minimisation.

Safe transport options, particularly late at night, should be promoted to patrons to reduce the potential for drink driving. Depending on the nature and location of the licensed premises, safe transport options can also reduce the potential for noise disturbances when patrons leave the premises.

Many liquor accords have successfully implemented transport options for patrons of participating licensed premises. This approach has the advantage of sharing limited resources, such as taxis, uber, secure taxi ranks, venue buses and reducing operating costs for licensed premises. Safe transport options may include:

Licensed premises courtesy bus

Some licensed premises offer a courtesy bus for their patrons. This helps promote the licensed premises commitment to patron safety and community amenity, and can also assist in reducing anti-social behaviour in the vicinity of the premises, especially late at night.

Taxis

Wherever possible, licensed premises should promote the use and availability of taxis.

Options include:

- ▲ offering to call a taxi for patrons;
- ▲ having a free phone available for patrons to call a taxi;
- ▲ displaying taxi signage;
- ▲ having access to other transport options such as Uber; and
- ▲ promoting taxi voucher schemes - which are sometimes introduced as a local liquor accord strategy.

Public transport

Public transport can be an effective transport option for licensed premises located close to public transport services. Licensed premises can promote the use of this option by making details of public transport available near the premises which can include promoting local bus/train/ferry timetables and making announcements before the last local service of the night.

References

Below is a list of resources available from Liquor & Gaming NSW:

[Intoxication guidelines](#) [Prevention of intoxication on licensed premises guidelines](#) [Liquor promotion guidelines summary](#) [Refusal of entry and patron bans/barring](#)

Schedule A

Intoxication Guidelines



Department
of Industry

Liquor & Gaming

GL4003

Intoxication guidelines

These guidelines are designed to assist you to determine whether or not a person is intoxicated.

Overview

You must always have due regard to the following objectives of the liquor laws:

- ▲ Need to minimise harm associated with the misuse and abuse of liquor.
- ▲ Encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor.
- ▲ Ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

What is the law?

Section 5 of the *Liquor Act 2007* states that a person is intoxicated if:

- ▲ 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.

Liquor licensees have important obligations to ensure alcohol is served responsibly to help minimise alcohol-related harm.

Supporting responsible consumption practices and preventing intoxication lowers the risk of alcohol-related violence and neighbourhood disturbance, and helps to promote a safe venue for customers and staff.

The NSW liquor laws prohibit the sale and supply of alcohol to intoxicated persons. Licensees also have a legal obligation to prevent intoxication from occurring on their premises. Fines, higher annual licence fees, and possible suspension or cancellation of a licence can apply where alcohol is served to an intoxicated person or intoxication is permitted.

Intoxication offences under the NSW liquor laws are discussed in the GL4002 'Prevention of intoxication on licensed premises March 2015' guidelines. The guidelines outline the obligations of licensees and serving staff. They provide advice on steps that can be taken by licensees and staff to manage the risk of intoxication on licensed premises.

The GL4002 'Prevention of intoxication on licensed premises March 2015' guidelines are issued by the Secretary, NSW Department of Industry, under section 73(5A) of the *Liquor Act 2007* and are available from Liquor & Gaming NSW at liquorandgaming.nsw.gov.au.

What are the noticeable signs of intoxication?

These symptoms or signs are not exhaustive, and not necessarily conclusive of intoxication.

Speech

- ▲ slurring words
- ▲ rambling or unintelligible conversation
- ▲ incoherent or muddled speech
- ▲ loss of train of thought
- ▲ not understanding normal conversation
- ▲ difficulty paying attention.

Balance

- ▲ unsteady on feet
- ▲ swaying uncontrollably
- ▲ staggering
- ▲ difficulty walking straight
- ▲ cannot stand, or falling down
- ▲ stumbling
- ▲ bumping into or knocking over furniture or people.

Coordination

- ▲ lack of coordination
- ▲ spilling drinks
- ▲ dropping drinks
- ▲ fumbling change

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- ▲ difficulty counting money or paying
- ▲ difficulty opening or closing doors
- ▲ inability to find one's mouth with a glass.

Behaviour

- ▲ rude
- ▲ aggressive
- ▲ belligerent
- ▲ argumentative
- ▲ offensive
- ▲ bad tempered
- ▲ physically violent
- ▲ loud / boisterous
- ▲ confused
- ▲ disorderly
- ▲ exuberant
- ▲ using offensive language
- ▲ annoying / pestering others
- ▲ overly friendly
- ▲ loss of inhibition
- ▲ inappropriate sexual advances
- ▲ drowsiness or sleeping at bar or table
- ▲ vomiting
- ▲ drinking rapidly.

Standard drinks

The concept of a standard drink enables people to keep track of how much alcohol they are consuming. A standard drink contains 10 grams of pure alcohol.

The [Standard drinks guide](#) can be used to help identify how many standard drinks have been consumed and is available from alcohol.gov.au.



How else to determine if someone is intoxicated

Make observations:

- ▲ Does the person smell of alcohol?
- ▲ How long has the person been drinking?
- ▲ When did the person enter the premises?
- ▲ Was the person affected by alcohol when they arrived?
- ▲ What type of alcohol has been consumed?
- ▲ How much alcohol have you seen the person drink?

Your observations will help you form a reasonable belief as to whether the person is intoxicated as a result of alcohol consumption.

Talk to the person and their friends to help determine whether the person is intoxicated or becoming intoxicated.

Reasonable belief that a person is intoxicated

The law requires you to form a reasonable belief that the person is intoxicated as a result of alcohol consumption. It is all right if you refuse service to a person on the basis of this belief, even if you are wrong.

Reasonable grounds for a belief that a person is intoxicated are what a reasonable person would believe in the circumstances, taking into account the relevant knowledge and facts presented.

You should be sure of your reasons for refusal of service and these reasons should not be discriminatory, for example due to race, sex, or disability.

A person has the right to take the matter to the Anti-Discrimination Board if they feel they have been subjected to discrimination.

Are there conditions that exhibit similar symptoms/signs to intoxication?

Some medical conditions, disabilities or the use of drugs may cause similar behaviours without the person being intoxicated as a result of alcohol consumption.

Prior to refusing service on the basis that a person is intoxicated, you should endeavour to determine whether the person has a medical condition or disability which may cause signs or symptoms similar to intoxication.

If the person has a medical condition or disability, it is likely that their friends will be able to tell you. Be sensitive to a person's right to privacy.

Examples only:

- ▲ acute infections
- ▲ acquired brain injury
- ▲ brain trauma/tumours
- ▲ delirium
- ▲ diabetes/hypoglycaemia

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- ▲ epilepsy
- ▲ head injuries
- ▲ pneumonia
- ▲ seizures and post-seizure states
- ▲ stroke.

Even though a person has a pre-existing condition, if you have observed the person consuming alcohol and the person has been drinking for some time, then it would be reasonable to form a belief that the person is intoxicated as a result of alcohol consumption.

- ▲ Slow service down for the patron
- ▲ Wait for the patron to re-order, don't automatically top up drinks
- ▲ Do not conduct any activity or promotion that will result in patrons engaging in irresponsible, rapid, or excessive consumption of liquor.

What to do if someone is intoxicated

If there are reasonable grounds for you to form a belief that someone is intoxicated as a result of alcohol consumption, you must refuse service to that person. Under the law the person must also be asked to leave the premises.

Procedures for dealing with intoxication incidents should be in place and staff should be trained in these procedures.

When refusing service to a person:

- ▲ Introduce yourself to the person. Tell them your name and your role, and ask their name.
- ▲ Approach the person in a friendly and respectful manner. Patronising or authoritarian attitudes can often evoke anger and make the person more aggressive – this is a common response to threats to one's dignity and self-respect. Try not to speak to the person in front of others.
- ▲ When talking to the person: use their name; use slow, distinct speech; use short simple sentences; avoid emotion and involved discussions; use appropriate eye contact (limit for cultural reasons); and adjust speaking pace to match the patron's.
- ▲ Give clear, concrete statement that by law they cannot be served another drink.
- ▲ Notify the manager/licensee/supervisor or security. Also notify other bar staff that you have refused service to the person. If a shift change is nearing, notify the new staff.

- ▲ Give a clear instruction that the person must leave the premises. If necessary, guide them to the exit, ensuring that they have all their personal possessions with them.
- ▲ If the person refuses to leave then you should contact police for assistance in removing the person from the premises.
- ▲ If considered necessary, management may consider imposing a short term ban.

The Liquor & Gaming NSW website has a number of resources which provide further information on refusing entry or removing patrons from a premises.

See the FS3030 'Refusal of entry and patron bans/barring' fact sheet for further information on refusing entry or removing patrons from a premises, or search for 'refusing entry' at liquorandgaming.nsw.gov.au.

Penalties

Supplying alcohol to an intoxicated person can be very expensive. The licensee or staff can be fined up to \$11,000 or be issued with an on-the-spot fine by way of a penalty notice. It is also an offence for other patrons to supply alcohol to an intoxicated person, with a maximum fine of \$1,100 applying.

For further information

Visit liquorandgaming.nsw.gov.au for more information about the liquor laws. Subscriptions to our e-news service are also available from this site.

Access to the liquor laws – the *Liquor Act 2007* and the *Liquor Regulation 2008* – is available from liquorandgaming.nsw.gov.au.

To find out more about the liquor laws, contact L&GNSW:

- 🌐 liquorandgaming.nsw.gov.au
- ☎ 1300 024 720
- ✉ info.lgnsw@justice.nsw.gov.au

Publication details

These guidelines are published by the Secretary, NSW Department of Industry, under section 5 of the *Liquor Act 2007*. They are designed to assist you to determine whether or not a person is intoxicated.

These guidelines are subject to periodic review. Please go to liquorandgaming.nsw.gov.au to ensure you are using the latest guidelines.

Schedule B

Prevention of intoxication on licensed premises guidelines



Department
of Industry

Liquor & Gaming

GL4002

Prevention of intoxication on licensed premises guidelines

Introduction

Liquor licensees have important obligations to ensure alcohol is served responsibly to help minimise alcohol-related harm. Supporting responsible consumption practices and preventing intoxication lowers the risk of alcohol-related violence and neighbourhood disturbance, and helps to promote a safe venue for customers and staff.

The NSW liquor laws prohibit the sale and supply of alcohol to intoxicated persons. Licensees also have a legal obligation to prevent intoxication from occurring on their premises. Significant penalties – including fines, higher annual licence fees, and possible suspension or cancellation of a licence – apply where alcohol is served to an intoxicated person or intoxication is permitted.

These guidelines include practical steps that licensees can take to manage the risk of intoxication on their premises. They will assist licensees to comply with the liquor laws and the conditions of their liquor licence.

While implementing these steps is not a licence requirement, it is recommended, as the steps provide evidence of what a licensee has done to minimise the risk of intoxication in the event of a prosecution under the liquor laws.

Because liquor is sold in a diverse range of circumstances, licensees and staff should also consider whether other measures – in addition to the steps outlined in these guidelines – are needed to minimise the risk of intoxication.

What is the law?

It is unlawful for a licensee or staff member to sell or supply liquor to an intoxicated person on licensed premises (section 73(2) of the *Liquor Act 2007*). The maximum penalty is \$11,000.

A person is intoxicated if:

- a. the person's speech, balance, co-ordination or behaviour is noticeably affected, and
- b. Separate guidelines have been issued by the Secretary, of the Department of Industry, to assist licensees and staff in determining whether a person is intoxicated. Please refer to GL4003 'Intoxication guidelines' at liquorandgaming.nsw.gov.au.

It is unlawful for a licensee to permit intoxication on licensed premises (section 73(1)(a) of the *Liquor Act 2007*). The maximum penalty is \$11,000.

A licensee is deemed to have permitted intoxication if an intoxicated person is on the licensed premises (section 73(4) of the *Liquor Act 2007*), unless the licensee can prove:

- a. The licensee or staff:
 - i. asked the intoxicated person to leave the premises, and
 - ii. contacted, or attempted to contact, the police for assistance in removing the person from the premises, and
 - iii. the person was refused further service of liquor, or
- b. The licensee or a staff member had taken the steps set out in guidelines issued by the Secretary of the Department of Industry, under section 73(5A) of the *Liquor Act 2007*, or
- c. The intoxicated person did not consume liquor on the licensed premises.

Prevention of intoxication on licensed premises guidelines

What is the purpose of these guidelines?

The Secretary of the Department of Industry, is required to issue these guidelines under section 73(5A) of the *Liquor Act 2007*. Their purpose is to describe the steps that licensees and their staff must take where a licensee wishes to be able to rely upon the defence in section 73(4)(a1) to establish that intoxication was not permitted on their licensed premises.

Where a licensee seeks to rely upon this defence, it will be necessary to demonstrate that **each of the steps** in these guidelines at the time that the offence of permitting intoxication was alleged to have occurred.

As an alternative to implementing the steps in these guidelines, licensees also have the option of relying upon sections 73(4)(a) or 73(4)(b) of the *Liquor Act 2007* to defend an allegation that intoxication has been permitted on the licensed premises.

References

Any reference to a licensee in these guidelines includes a reference to a manager as defined in section 4 of the *Liquor Act 2007*.

Any reference to staff or a staff member in these guidelines includes a reference to any person undertaking duties related to the sale and supply of alcohol on the licensed premises, including security personnel and RSA marshals.

Steps to prevent intoxication on licensed premises

1. Selling, supplying and promoting liquor responsibly

The steps are:

- the requirement to not sell or supply liquor to an intoxicated person (under section 73(2) of the *Liquor Act 2007*) is complied with,
- obligations relating to responsible service of alcohol training and the availability of free water (under clauses 40, 42, 42A, 42B and 51 of the *Liquor Regulation 2008*) are complied with,
- any conditions imposed on the liquor licence or any requirements under the *Liquor Act 2007* which restricts the times, type or quantity of alcohol sold or supplied on the licensed premises are complied with, and
- liquor is not sold, supplied or promoted in a manner that is inconsistent with the Liquor Promotion Guidelines issued by the Secretary, of the Department of Industry, under section 102(4) of the *Liquor Act 2007*.

Please refer to GL4001 'Liquor Promotion Guidelines' at liquorandgaming.nsw.gov.au.

2. Monitoring liquor consumption and patron behaviour

The steps are:

- the licensed premises is operating under the direct supervision of the licensee or appropriately experienced supervisory staff whenever liquor is being sold and supplied,
- liquor consumption by all patrons is actively monitored by the licensee or staff,
- intervention occurs when the licensee or a staff member becomes aware that a patron is consuming liquor irresponsibly and in a manner likely to result in intoxication,
- intervention occurs when the licensee or a staff member becomes aware that a patron is intoxicated to prevent the person from consuming liquor and to request that person to leave the premises,
- patrons entering the licensed premises between midnight and 5am are actively monitored and assessed for intoxication at the time of entry, and
- any conditions imposed on the liquor licence, requirements under the *Liquor Act 2007*, or requirements of a development consent or approval under the *Environmental Planning and Assessment Act 1979*, relating to the engagement and duties of security personnel and/or RSA marshals are complied with.

3. Implementing harm minimisation measures

The steps are:

- the availability of free drinking water is actively promoted to patrons throughout the licensed premises,
- action is taken to make patrons aware of the availability of non-alcoholic and low strength alcoholic beverages in the licensed premises,
- any requirements under the *Liquor Act 2007* relating to the provision of food on the licensed premises are complied with in a manner consistent with the reasonable requirements, expectations and demands of the patrons of the premises, and
- the following drinks are not sold or supplied between midnight and 5am:
 - any drink (commonly referred to as a 'shot', a 'shooter' or a 'bomb') that is designed to be consumed rapidly,

Prevention of intoxication on licensed premises guidelines

- ii. any ready to drink beverage with an alcohol by volume content of more than 5%, and
- iii. any drink prepared on the premises that contains more than 30 ml of spirits or liqueur, other than a cocktail that contains spirits or liqueur (or both) mixed with other ingredients and that is not designed to be consumed rapidly.

4. Planning to prevent intoxication on the licensed premises

The steps are:

- a. written document (such as a plan or house policy) is prepared which:
 - i. details the measures in place to prevent intoxication on the licensed premises (including the method of complying with the steps set out in these guidelines),
 - ii. describes how staff are instructed and trained to prevent intoxication on the licensed premises, and
 - iii. is provided to police and inspectors upon request.
- b. all staff receive instructions and training on the contents of the document referred to in step 4(a) above before they commence working on the licensed premises.

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Schedule C

Liquor promotion guidelines - summary



Department
of Industry

Liquor & Gaming

Fact sheet FS3029

Liquor promotion guidelines summary

This fact sheet summarises the liquor promotion guidelines. They are intended to provide guidance as to what issues are considered important in determining whether a liquor promotion is undesirable and may be subject to a notice.

The following table provides a quick reference guide listing the 7 principles which detail the types of liquor promotion activity that are considered undesirable and include *some* examples of unacceptable practices.

Principle		Some examples of unacceptable promotions
1	The promotion must not have a special appeal to minors, because of the designs, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors or for any other reason.	Promotions: <ul style="list-style-type: none">which use characters, imagery, motifs, naming or designs which primarily appeal to minorsthat include merchandise that primarily appeal to minorsusing interactive games or technology predominantly targeted to minors.
2	The promotion must not be indecent or offensive.	Promotions which: <ul style="list-style-type: none">use images, including human bodies, that may be considered offensive to a reasonable adultuse insulting or offensive language in the liquor promotion materialoffer free or discounted drinks for participating in an activity that may be offensive to a reasonable adult present on the licensed premises.
3	The promotion must not involve the use of non-standard measures that encourages irresponsible drinking and is likely to result in intoxication.	Promotions encouraging the consumption of: <ul style="list-style-type: none">alcohol in a yard glass for skolling, laybacks, slammers, blasters, bombs or consumption from a water pistolmultiple shooters or shots by an individual. Or Promotions: <ul style="list-style-type: none">which encourage an individual to purchase and consume on their own an alcoholic drink intended to be shared (that is, a drink containing a significant number of standard drinks).

Liquor promotion guidelines summary

4	The promotion should not use emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication.	<p>Promotions:</p> <ul style="list-style-type: none"> or events which focus principally on the excessive consumption of alcohol, e.g. Mad Monday labelling or titling of promotions that suggest irresponsible or excessive consumption of alcohol, e.g. 'Drink like a fish', 'Beat the clock'.
5	The promotion should not involve the provision of free drinks or extreme discounts, or discounts for a limited duration that creates an incentive for patrons to consume liquor more rapidly than they otherwise might.	<p>Promotions providing:</p> <ul style="list-style-type: none"> free drinks which encourage rapid consumption of alcohol (e.g. All you can drink in a limited time frame) drink cards, promotional cards, or vouchers which encourage rapid consumption of alcohol over a short period of time (e.g. \$50 voucher redeemable between 9pm and 10pm) happy hours encouraging or facilitating the rapid consumption of alcohol.
6	The promotion should not otherwise encourage irresponsible, rapid or excessive consumption of liquor.	<p>Promotions which involve:</p> <ul style="list-style-type: none"> the use of drinkware which encourages rapid consumption, such as test tubes, water pistols, yard glasses drinking games, competitions, challenges, dares, lotteries or games of chance that involve the rapid or excessive consumption of liquor (such as skolling games, boat races, flip and win, 'around the world', 60 shots in 60 minutes', pub golf).
7	The promotion should not be otherwise considered to not be in the public interest.	<p>Promotions which:</p> <ul style="list-style-type: none"> use images or messages which could be seen to be encouraging or condoning breaking the law or other anti-social behaviour or which link the promotion of alcohol with illicit drugs or allude to drug taking behaviour associate liquor consumption with aggressive or violent behaviour towards other people.

The determination of whether a promotion is undesirable and may be subject to a notice is made by the Secretary, Department of Industry or a delegate, such as the Director, Compliance, Liquor and Gaming NSW.

Before a determination is made, a licensee may be given the opportunity to comment or offer an explanation on why the promotion should not be considered undesirable. An application can be made to Liquor and Gaming NSW for the Independent Liquor and Gaming Authority to review a decision.

While each of the principles and examples provide guidance on liquor promotions that are generally considered undesirable, it is in the interests of venues to ensure that all promotions are conducted with

harm minimisation measures in place to prevent unacceptable outcomes.

Employing harm minimisation measures does not automatically negate the possibility of liquor promotions being restricted or prohibited, but appropriate management of all promotions is necessary.

A list of harm minimisation measures that may be appropriate include but are not limited to the following:

- RSA marshals
- Service of free food and water is part of the promotion
- Alcohol Management Plan specific to the promotion
- Drink limits

Liquor promotion guidelines summary

- ▲ Signs prominently disclosing the content of mixed alcoholic drinks served to customers
- ▲ Appropriate time frame for conduct of promotion
- ▲ Alcohol content is measured and discernable
- ▲ Limits on the quantity of alcohol that can be purchased at a reduced price.

However it should be noted that there are no mitigating measures that will enable examples of promotions identified as being 'unacceptable' in the guidelines from being undertaken.

For further information

Liquor & Gaming NSW

☎ 1300 024 720

✉ info@olgr.nsw.gov.au

For information, or to make a complaint, about liquor promotions please contact Compliance Unit.

☎ 1300 024 720

@ complaints@olgr.nsw.gov.au

More detailed information on the principles and further examples are available in the GL4001 'Liquor promotion guidelines July 2013', available at liquorandgaming.nsw.gov.au.

The guidelines are subject to periodic review.

Please go to liquorandgaming.nsw.gov.au to ensure you are using the latest guidelines.

Schedule D

Refusal of entry and patron bans/barring



Department
of Industry

Liquor & Gaming

Fact sheet FS3030

Refusal of entry and patron bans/barring

There are a number of ways that licensees can deal with troublesome patrons, including those that are disruptive, violent, intoxicated or fail to adhere to venue rules and policies.

This fact sheet helps explain how these exclusion provisions work and the circumstances in which they can be used.

Introduction

Patrons of licensed venues in NSW have a right to enjoy safe and responsible drinking environments. The *Liquor Act 2007* supports responsible drinking and provides powers for venues and police to eject and ban troublesome patrons. Licensees also have a common law right to refuse entry, or evict people from their venue.

The options available to licensees range from refusing entry or removing a person at the time of the incident, barring the person for an extended period of time (single or multiple venues) or seeking a formal banning order against the person.

The diagram below shows the options available to a licensee and the escalated approach that should be taken when dealing with a troublesome patron.

These strategies strengthen the ability of licensees to enforce expected standards of patron behaviour,

recognising that everyone deserves to be able to enjoy themselves responsibly and feel safe in and around licensed premises.

All businesses must work within anti-discrimination laws and applicable privacy legislation, so it is recommended that any strategy for refusal of entry, whether it is venue specific or group based, be founded on a strong set of procedures that have been checked with a legal adviser.

Criteria for refusal of entry

Licensees can have a significant impact on patron behaviour in their venues by setting rules which determine what is acceptable.

It is important that the rules, and decisions around them, are made based on the behaviour of persons and not personal characteristics.

Care should be taken to ensure that when a person is refused entry or ejected from the licensed premises, either under the *Liquor Act 2007* or by common law, it is done within the bounds of the *NSW Anti-Discrimination Act 1977* and the various state and Commonwealth discrimination laws.

Many licensees have developed house policies or patron codes of conduct to outline the rules which determine what is acceptable patron behaviour. Any house policy or code should:

- ▲ focus on expected behaviour
- ▲ be applied equally
- ▲ be prominently displayed, and
- ▲ indicate that failure to behave in accordance with the policy or code will result in refusal of entry or removal from the venue (or other sanction).

Liquor Act 2007

Under the *Liquor Act 2007* licensees, their staff and police officers can refuse to admit, or can eject, any person:

- ▲ who is intoxicated, violent, quarrelsome or disorderly

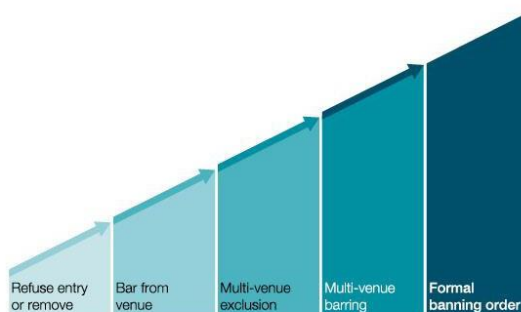


Figure 1: options available when dealing with a troublesome patron

Refusal of entry and patron bans/barring

- ▲ whose presence on the licensed premises renders the licensee liable to a penalty under the *Liquor Act 2007*
- ▲ who smokes within a smoke-free area as defined by the *Smoke-free Environment Act 2000*
- ▲ who uses or possesses a prohibited drug while on the premises.

Access to the licensed premises can also be refused if licence conditions allow or under the terms of a liquor accord. Once a person is refused admission or ejected on any of the above grounds they are committing an offence if they do not leave the licensed premises.

A maximum fine of \$5,500 applies.

The person also commits an offence if they:

- ▲ attempt to re-enter or do re-enter the licensed premises within 24 hours
- ▲ remain in the vicinity of the premises (within 50m of the boundary of the premises) without reasonable excuse, or
- ▲ re-enter the vicinity of the premises within six hours without reasonable excuse.

Maximum fines of \$5,500 apply for each offence. A reasonable excuse for a person remaining in or re-entering the vicinity of a licensed premises includes:

- ▲ the person reasonably fears for their safety
- ▲ the person needs to obtain transport, or
- ▲ the person resides in the vicinity of the premises.

Common law

In 2010, the *Liquor Act 2007* was amended to include section 77 (13), which recognises a licensee's common law right to exclude or evict a person from their premises:

Nothing in this or any other section of the Act operates to limit any other right a person has to refuse to admit a person to, or to turn a person out of, licensed premises.

Under common law a patron has an implied licence to enter and remain on the premises – which the licensee can revoke at any time.

This means that licensees can refuse entry or remove persons for reasons other than those specified by section 77 of the *Liquor Act 2007*. Common examples of the use of these rights is through the enforcement of dress codes, voluntary lockouts or barring patrons for behaviour which occurred at another premises or outside the venue.

Essentially licensees can revoke a person's implied common law invitation to enter the premises for any reason so long as it is not discriminatory.

If a patron refuses to comply with a request under common law to leave a venue, they are committing an offence under the *Inclosed Lands Protection Act 1901*, and could also be exposed to civil liability for trespass. It is recommended that licensees display a sign near the entrance to their venue to the effect of:

This venue has the right to refuse entry to any person, or to withdraw any person's permission to remain on the premises at any time.

Dress codes

Many licensees have dress codes to ensure a minimum standard of clothing is worn. Such codes will normally reflect the nature and/or operation of the licensed venue in an attempt to set the tone, comfort and safety of a venue. For example, dress codes have prevented certain types of footwear or clothing of a particular style or condition, such as thongs, singlets and dirty or torn clothing.

In order to ensure no discrimination is applied, a dress code should be displayed at the venue's main entrance, have similar standards applying for men and women and be applied equally.

Restrictions on persons wearing gang related clothing is a form of dress code which has successfully been adopted by licensed premises and local liquor accords throughout the state. The benefits of adopting the strategy through a local liquor accord are that it is a united and consistent approach that deflects the decision away from the individual licensee.

Premises in the Sydney CBD and Kings Cross precincts must not permit any person to enter, or remain on, the premises if the person is wearing or carrying any clothing, jewellery or accessories of certain outlaw motorcycle-related and similar organisations. For more information and the list of organisations refer to FS3045 'Special licence conditions for premises in Kings Cross' and FS3046 'Special licence conditions for premises in the Sydney CBD' fact sheets at liquorandgaming.nsw.gov.au

To see signage relating to dress codes refer to 'Further resources' on page 11.

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Refusal of entry and patron bans/barring

Patron barring/banning

Whilst most patrons behave responsibly and are warmly welcomed back to venues, there are, unfortunately, a minority of people who demonstrate violent or significantly inappropriate behaviour.

If a person is refused entry or ejected from licensed premises who is intoxicated, violent, quarrelsome or disorderly, whose presence on the licensed premises renders the licensee liable to a penalty under the *Liquor Act 2007*, who smokes within a smoke-free area as defined by the *Smoke-free Environment Act 2000*, who uses or possesses a prohibited drug while on the premises, they are temporarily banned from the premises for 24 hours under the *Liquor Act 2007*.

However, the licensee can impose a longer or indefinite barring period under common law. This is also the case for other forms of inappropriate behaviour.

In order for licensees to have any meaningful impact on patron behaviour they need to:

- ▲ establish clear guidelines for acceptable and unacceptable behaviour
- ▲ determine the consequences of unacceptable behaviour (i.e. patron barring terms)
- ▲ communicate these clearly to patrons, and
- ▲ apply them resolutely and consistently.

The benefits of a barring strategy are:

- ▲ it sends a strong message to trouble makers
- ▲ it defines and reinforces acceptable standards of behaviour in local venues
- ▲ patrons feel safer so are likely to spend more time at your venue
- ▲ less disruption for staff
- ▲ a safer work environment
- ▲ a more relaxing and enjoyable atmosphere.

Where possible, standard barring terms should be agreed upon and adopted by all members of the local liquor accord. The benefit of developing strategies through a local liquor accord is that it sets a consistent approach for all venues in the accord to follow. This helps patrons understand the expectations from all venues in an area, making it easier for them to comply.

Multi-venue strategies

Through multi-venue barring strategies, venues are better able to protect the safety and well-being of their

staff and patrons, eliminate or reduce occurrences of violent and anti-social behaviour and promote the industry's responsible image in the community.

Where a person has engaged in more serious acts of violence or anti-social behaviour, or has repeatedly been troublesome, either in the same or other venues (or vicinity of), venues can unite to bar the person from all venues. A multi-venue barring is intended to assist licensees to protect their staff and patrons from the behaviour of the person concerned.

Multi-venue barring is another example where a licensee uses their common law right to exclude a person from their venue. Where an accord bars a person from all accord venues, they are in effect informing the person that each licensee will exercise their right of refusal if an attempt is made to enter the venue.

Multi-venue barring requires high levels of communication and cooperation between local venues and detailed policies and procedures around its operation. This will generally require an agreement or constitution (detailing membership and voting rights), an executive or governing body, regular meetings and establishing communication channels. For these reasons local liquor accords are the most appropriate mechanism to implement a multi-venue barring strategy, as these governance aspects will already be in place.

In order to be successful, a multi-venue barring strategy needs to be a participant-driven effort facilitated and supported by other stakeholders, but operated and owned by venues that the program exists to serve.

There are two types of multi-venue strategy:

- ▲ **Multi-venue exclusion** where a patron is immediately barred from multiple venues, and only for 24 hours.
- ▲ **Multi-venue barring** where a longer term barring is put in place.

Multi-venue exclusion

Multi-venue exclusion may occur when a person is refused entry or removed for being intoxicated, violent, quarrelsome or disorderly on or near a venue. The licensee may then immediately notify all the surrounding venues who also refuse entry to that person.

This strategy aims to deal with the immediate risk posed by the patron and only applies for the trading period in which it occurred, i.e. no more than 24 hours. Any barring that extends beyond the immediate trading period should be considered under a normal multi-venue barring policy.

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Refusal of entry and patron bans/barring

Fundamental to the success of this strategy is the effectiveness of the communication system. Traditional systems employ a telephone ring round system, which normally works in one of two ways:

- ▲ in a “round robin” system, venues pass on messages in an agreed order;
- ▲ in a “pyramid” or “cascade” system one venue telephones two venues in order to increase the odds of a message reaching all members.

Each accord should decide on the communication system that works best in their area.

In recent years many accords have adopted electronic pagers, radios or linked ID scanners. Although more expensive than telephones, they have considerable advantages in terms of speed and reliability, allowing instant communication to the entire group.

Multi-venue barring

Under a standard multi-venue barring system, licensees work in partnership through a local liquor accord and agree on a system where troublesome patrons are barred from all venues in an area. If, after consideration by the accord, a decision is made to bar a person, then they are barred from all accord venues for the specified period. Essentially this means that each licensee agrees to exercise their common law right to refuse entry for the exclusion period.

In most cases, multi-venue barring is not imposed for one incident (unless serious) but is usually the culmination of a series of incidents over a period of time. These will usually be accompanied by repeated warnings from individual licensees.

Note: Different circumstances apply for members of Registered Clubs – see page 6 for more detail.

Multi-venue strategy

Accords should establish a clear set of procedures for patron barring, and how they will be determined. Key questions to consider include:

1. When are patrons barred?

Develop a list of behaviours that may lead to a multi-venue barring and agree upon the minimum barring period that relates to each offence. This can also be used by licensees as a guide for individual venue barring and to ensure consistency across the accord.

The list should detail:

- ▲ The specific types of behaviour that will result in a person being barred.
- ▲ The barring period for each offence.
- ▲ Any increased periods for multiple or repeat offences.

Setting an agreed list of behaviours that have been checked by legal advisors helps to ensure anti-discrimination laws will not be breached.

2. Who will determine whether to bar a person?

Accords will need to establish who decides whether to bar a person. This could include:

- ▲ The accord executive.
- ▲ A specially formed disciplinary panel.
- ▲ The full membership of the accord (licensees only).

3. How will the multi-venue barring strategy operate?

Clear procedures will need to be developed and documented, including:

- ▲ Who can make the application?
- ▲ What information is required?
- ▲ When will it be considered – next accord meeting, special meeting of the panel or considered remotely by each panel member?
- ▲ Is there a review/appeal option in place?

The strategy should be adopted as a term of the accord. The policy is more likely to be effective if it has full support from all local venues. Take time to meet and consider feedback from all members.

This is a good time for a membership drive as licensees who are not currently liquor accord members may want to join the accord to participate in multi-venue barring.

4. How will you tell the barred person about the rules of the barring?

They need a formal notification so they can understand what the barring involves. This could be done through:

- ▲ Written information.
- ▲ Meeting with the local licensing officer.
- ▲ Attendance at a liquor accord meeting.

It's useful to have a central person coordinate the barring notifications. Decide who will be responsible for notifying the patron about the terms of the barring.

Refusal of entry and patron bans/barring

5. How will information be shared?

All staff at participating venues need to be told when a patron is barred. A system should be put in place to let staff know who the barred patron is, how long for and when a barring period is complete.

It's important to consider how personal information is used and secured. For example, details of a barred person should not be on display where they can be seen by patrons in the venue. Any staff handling personal information should be privacy trained.

Depending upon whether a venue is bound by the *Privacy Act 1988* (Cth), additional requirements or limitations on the sharing of information may also apply (refer to page 7).

If using an ID scanning system special considerations need to be in place. See details from The Office of the Australian Information Commissioner on page 8.

6. Ensure staff are trained

They will need to know:

- ▲ The process for barring a patron.
- ▲ How to deal with a barred patron entering the premises.
- ▲ How to remember when a barring notification is complete and the patron is welcome to enter again.

7. Removal of barring

A person may be barred until the end of the agreed term, or earlier than that if agreed to and voted on by all participating venues.

The inclusion of a condition, such as attendance at anger management counselling, could be considered before removal of the barring.

8. Seek legal advice

Once the accord has agreed on a draft policy, it is important to seek legal advice before finalising the document.

It is particularly important to check that your policy meets privacy and anti-discrimination laws. Check that the penalties and procedures for implementing any barring are legally enforceable before putting them in action. Fines could apply.

The Anti Discrimination Guidelines for the Hotel and Accommodation Industry, produced by the Anti-Discrimination Board with the AHA (NSW) and Tourism Accommodation Australia (NSW), is a valuable

reference for legal requirements when it comes to anti-discrimination laws.

9. Publicise it

It's only fair to give patrons advance notice that the multi-venue barring strategy is being put in place. Consider the following promotion opportunities:

- ▲ In-venue signage.
- ▲ Local media – see the media release template at Attachment D.
- ▲ Promote in community centres – police station, library etc.
- ▲ With the displayed conditions of entry or other signage at the door.
- ▲ Liquor accord, venue websites, social media channels.

Promoting through local community centres can help improve understanding and boost support from all sectors of the community. It may even help promote your venues as a safe, friendly place to be.

10. Evaluate

It is important to review the strategies regularly at first. Move to more long term reviews (e.g. yearly) once the program is established.

Evaluation questions to consider:

- ▲ Effectiveness of each penalty time – too short, too long?
- ▲ Offences that should be added or removed.
- ▲ Communication processes between participating venues.
- ▲ Staff issues – do all staff understand the process?
- ▲ Is it working – are barred patrons finding any loopholes?
- ▲ Response from the general community?
- ▲ Police data.
- ▲ Number of patrons requiring barring? (Ideally this should decrease as patrons become aware of the system.)

A sample multi-venue policy is included at Attachment A. To assist with your planning, a worksheet of these questions is included at Attachment B.

Banning orders

Through formal banning orders, patrons who are continually troublesome can be held to account.

Refusal of entry and patron bans/barring

Barring strategies that draw on common law rights are generally sufficient to deal with disruptive patrons. However, the option to apply for a formal banning order is also available to licensees.

A formal banning order may be appropriate where:

- ▲ A person continually disregards a barring period imposed under common law (either single or multi venue).
- ▲ There is no liquor accord in place to implement a multi-venue barring strategy.
- ▲ Agreement cannot be reached by all venues to bar a patron.
- ▲ The patron has been significantly disruptive to warrant formal regulatory intervention.

Under section 78 of the *Liquor Act 2007*, a person who has been repeatedly intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises can be banned for up to six months from multiple licensed venues.

An application for a banning order can be made by The Secretary of NSW Department of Industry, NSW Police or a licensee who is a party to a local liquor accord.

A person subject to a banning order must not enter, attempt to enter or remain on the licensed premises. A maximum penalty of \$5,500 applies.

For additional information on banning orders go to liquorandgaming.nsw.gov.au

Place Restriction Orders

For serious matters that lead to prosecution, a Place Restriction Order under the *Crime (Sentencing Procedure) Act 1999* is another approach that could be considered in consultation with police. This provision can be applied during the sentencing process. A person may be prohibited from certain places for 12 months when they are convicted for a minimum sentence of 6 months – including while on bail, or community service. Speak to your local licensing officer for further details.

Choosing the right strategy

There are a number of ways that a licensee can exclude a person from their venue, and effectively, other venues.

It is important that licensees give careful consideration to the conduct and behaviour of the person and the harm that this presents when determining which strategy to apply. Any policy that is pursued or adopted must be balanced, fair and reasonable in order to gain broad approval from the community and other licensees – and to reduce the risk of civil litigation.

For example, it would be appropriate to remove an intoxicated person from your venue and implement a multi-venue exclusion in order to prevent the person from gaining entry to another premises whilst intoxicated. However, it may be viewed as harsh or extreme to bar that person from your premises, or others, unless there were aggravating circumstances, e.g. fail to leave when asked, or aggressive behaviour.

The matrix below may provide some guidance in determining which strategy to adopt in each case.

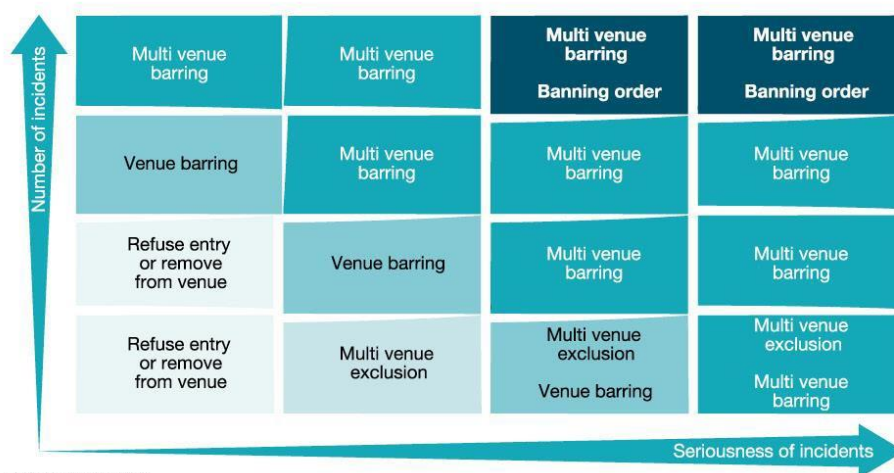


Figure 2: incident matrix

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Refusal of entry and patron bans/barring

Registered clubs

Registered Clubs share the same common laws rights as other licensees for any member of the public.

However, the position in relation to club members is different.

Members of a registered club have a membership interest in the club and have a right to enter and use the premises subject to the rules of the club. As such, a club member can only be refused entry or removed from the premises where provided for by the *Liquor Act 2007* or in circumstances provided for in the club rules – and in accordance with any procedures laid down in the rules.

Generally speaking, clubs would ordinarily be expected to have rules governing the expulsion or suspension of members from the club premises, and the conditions under which this may take place. However, existing rules are unlikely to encompass the behaviour of members on other licensed premises or outside of the club. Unless club rules include such provisions (or similar), a member could not be excluded from entry by virtue of a multi-venue barring policy.

Whilst it may be possible for a registered club to participate in a multi-venue barring strategy through changes to its club rules, there are a number of issues that will need to be considered and it is recommended that specific advice is sought from ClubsNSW or a legal practitioner before doing so.

Key considerations include:

- ▲ the adequacy of existing grievance procedures
- ▲ the mechanism under which club rules can be changed (usually only by special resolution)
- ▲ whether a barring through the accord results in a bar from the club – or instead triggers the club's own grievance procedure
- ▲ whether or not a barred member would be entitled to a refund of their membership fee on a pro rata basis for the barring period.

In addition, clubs which are co-operatives usually have more substantial grievance procedures for issues arising between members and the club under applicable legislation. In these instances, any changes to the grievance procedure would need to meet the requirements of the specific legislation that applies to co-operatives.

Registered clubs should contact ClubsNSW on **(02) 9268 3000** for further information.

Anti-discrimination

Anti-discrimination laws are an important consideration when barring or banning patrons.

When determining banning orders, Independent Liquor & Gaming Authority must not take into consideration the person's race or ethnic or national origins – section 78(7). Licensees should do likewise when considering patron barring and ensure that decisions are made based on the behaviour of persons and not personal characteristics.

Licensees should be aware that any decision relating to patron barring must be made in accordance with the *Anti-Discrimination Act 1977* (NSW) and the various Commonwealth and state legislation relating to discrimination.

Venues should apply rules consistently and fairly. For example, if a customer is barred for six months for disorderly behaviour, all other customers should be barred for the same length of time for the same behaviour and not be given a heavier penalty for personal reasons or because they are part of a minority group.

Setting up procedures for all staff to follow before barring any patrons is one way to help avoid discrimination. Check the procedures with a legal advisor to be absolutely sure they are enforceable.

Anti Discrimination Guidelines for the Hotel and Accommodation Industry is a document produced by the Anti-Discrimination Board of NSW, the AHA (NSW), and Tourism Accommodation Australia (NSW) and explains the rights and responsibilities of licensees and their employees under anti-discrimination law. You can obtain it by searching for 'hotel guidelines' at antidiscrimination.justice.nsw.gov.au

To formalise this process you may want to issue the patron with a notice indicating the details of the offence they have committed and the length of time they are barred for.

Privacy obligations with multi-venue strategies

Many people have concerns about the possible misuse of personal information.

They worry that stored personal information could be hacked, stolen or inappropriately accessed or misused, causing harm through financial, credit card or identity fraud.

Both State and Federal laws exist to deal with these concerns, and licensees should ensure that they

Refusal of entry and patron bans/barring

only collect information so far as it is necessary to implement the multi-venue barring policy.

Different legislation may apply to each different type of accord member and each licensee. Regardless of whether there is binding legislation, it is good practice for all venues to take steps to protect the privacy of patrons to help lower the risk of privacy complaints being lodged against them. This is particularly the case when collecting and sharing information about a person who has been barred.

The following provides general information on both state and federal privacy laws; however, it is ultimately a matter for each licensee to determine their own privacy obligations.

It is strongly recommended that an accord or licensee seeks independent legal advice before implementing a barring system.

Privacy and Personal Information Protection Act 1998

The *NSW Privacy and Personal Information Protection Act 1998* (PPIPA) applies only to public sector agencies. As such individual licensees are not bound by it and may collect, use and disclose personal information without breaching its terms. The NSW Police Force is also exempt from compliance with the PPIPA, except in relation to its administrative and educative functions.

This means that a licensee who is party to a local liquor accord that bars a person from the venue may disclose the name of the person and a photograph (if available) to other licensees who are parties to the liquor accord, without breaching the PPIPA (however, Commonwealth law may apply).

Public sector agencies that are eligible parties to the accord, such as the Secretary of NSW Department of Industry and local councils will need to ensure that any dealings with personal information about barred persons accords with the PPIPA. In these circumstances it is recommended that you exclude these agencies from this information.

Commonwealth Privacy Act 1988

Whilst NSW privacy laws are not generally applicable, some licensees may have obligations under the *Commonwealth Privacy Act 1988*. Under the *Privacy Act*, licensees with a turnover of more than \$3 million are required to comply with the Australian Privacy Principles (APP) that restrict the collection and disclosure of personal information (schedule 3 to the Act).

The Office of the Australian Information Commissioner has developed a FAQs for agencies and organisations for determining whether or not a business is exempt from the *Privacy Act*. This is available from oaic.gov.au

Regardless of whether a venue is bound by the *Privacy Act*, the APPs provide a framework of good practice for all business and should be considered as part of any barring strategy.

How to comply with the Privacy Act

Complying with the *Privacy Act* means that you should:

- ▲ Tell people when you collect personal information what you expect to do with it.
- ▲ Use personal information only for the reason you collected it, or in ways people would think reasonable, unless you have their consent, have given them an opportunity to opt-out or the use is authorised by another law.
- ▲ Pass on personal information only for the reason you collected it, or in ways people would think reasonable, unless you have consent or the disclosure is authorised by another law.
- ▲ If people ask, give them a chance to see any information you hold about them and keep personal information secure, accurate and up-to-date.
- ▲ Take reasonable steps to secure the information and destroy or de-identify the information when it is no longer required.

Of particular relevance, under APP 6 an organisation is prohibited from using or disclosing personal information about an individual for a purpose other than the primary purpose of collection. Where a multi-venue barring policy is in place, venues may be able to use and disclose an individual's details provided that the information was primarily collected in order to implement this policy. To remove any doubt and to comply with other aspects of the APPs, patrons should be informed of this at the time of collection.

Ultimately it will be up to each individual licensee to assess whether they are required to comply with the APPs and, if so, to determine what steps need to be taken in this regard. However, there is nothing to prevent the accord participants agreeing that certain measures be taken to protect the privacy of the barred person, so far as possible, even if not legally required.

Refusal of entry and patron bans/barring

As previously stated, licensees should seek independent legal advice when developing their barring procedures.

You should also note that there are proposed changes to the *Privacy Act* (Cth). Accordingly, you should review the legislation regularly to ensure that you are up to date with your privacy obligations.

ID Scanners

An increasing number of licensed venues have introduced ID scanners as a security measure. By linking these systems between venues, ID scanning may provide an effective mechanism to implement a multi-venue barring policy. While the recording of personal information can deter anti-social behaviour and improve compliance, use of ID scanners must take into account the same privacy considerations detailed above.

It is essential for each licensee to seek legal advice on their individual privacy requirements to ensure that they comply with the law. For example, APP 10 states that consent is needed to collect sensitive information, Organ donor information on a driver's licence is considered to be sensitive information.

Compliance tips

The following tips come from the Office of the Australian Information Commissioner:

- ▲ Only collect the identity information you need. Limit to what is necessary.
- ▲ You are not allowed to collect information simply because you think it may be useful in the future.
- ▲ You are not allowed to collect information simply because it is convenient.
- ▲ Consent is needed to collect 'sensitive' information. NB: Driver's licences contain sensitive information.
- ▲ Even if you have consent, the information still needs to be necessary before you are allowed to collect it.
- ▲ Consider giving your patrons an option if they don't want their ID scanned.
- ▲ Patrons must know that their information is being collected and what will be done with it.
- ▲ All staff that handle personal information should be privacy-trained.
- ▲ The information you have scanned and stored must be accurate, complete and up-to-date.
- ▲ Don't collect Australian Government identifiers. This means not collecting, scanning or copying identifiers such as passports or Medicare numbers.

This information is summarised from: Information Sheet (Private Sector) 30 – ID scanning in pubs and clubs, available from oaic.gov.au

Need more information?

To find out more about refusal of entry and patron bans/barring, contact L&GNSW:

 liquorandgaming.nsw.gov.au







 liquor.accords@liquorandgaming.nsw.gov.au

 (02) 9995 0312

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Refusal of entry and patron bans/barring






Further resources

	<p>Liquor Accord Groups</p> <p>Liquor & Gaming NSW provide dedicated support and assistance to Liquor Accord Groups including education, development of strategies and campaigns, guidance on how to set up a Liquor Accord Group, resources and information on industry updates and legislative changes.</p> <p>Phone 02 9995 0312, email liquor.accords@liquorandgaming.nsw.gov.au, or visit liquorandgaming.nsw.gov.au</p>
	<p>Anti Discrimination Guidelines for the Hotel and Accommodation Industry</p> <p>Produced by the Anti-Discrimination Board of NSW, the AHA (NSW) and Tourism Accommodation Australia (NSW), it explains the rights and responsibilities of hoteliers and their employees under anti-discrimination law. Although developed for hoteliers, the document provides useful guidance to all licensees.</p> <p>Search for 'hotel guidelines' at antidiscrimination.justice.nsw.gov.au</p>
	<p>Privacy</p> <p>Comprehensive information on all areas of privacy law is available from the Office of the Australian Information Commissioner.</p> <p>Visit oaic.gov.au and go to the 'Agencies and organisations' page for more information.</p>
	<p>ID Scanning – Privacy</p> <p>The Office of the Australian Information Commissioner also provides information in relation to the use of ID scanners at licensed premises.</p> <p>Visit oaic.gov.au and go to the 'Agencies and organisations' page for more information.</p>
	<p>Intoxication guidelines</p> <p>The guidelines are aimed at assisting licensees and their staff determine whether a person is intoxicated. The guidelines have been developed to support the objectives of the <i>Liquor Act 2007</i>.</p> <p>To view the guidelines visit liquorandgaming.nsw.gov.au and search for GL4003 'Intoxication guidelines'.</p>
	<p>Privacy Awareness Training Module</p> <p>If you work in the Kings Cross precinct and operate an ID scanner in a high-risk venue, you need to obtain a privacy endorsement. You can only obtain a privacy endorsement by completing the Privacy Training for use with ID Scanners</p> <p>For more information about privacy training, email privacy.training@liquorandgaming.nsw.gov.au</p>

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Refusal of entry and patron bans/barring

Further resources

	<p>Poster: Still on the Spot?</p> <p>This poster explains the requirement for patrons to leave the 50 metre vicinity of the premises when ejected or refused entry for being intoxicated, violent, quarrelsome or disorderly.</p>
	<p>Postcard: Still on the Spot?</p> <p>Double-sided cards in English, Simplified Chinese, Korean, Thai, Malaysian, Spanish and Portuguese communicate the circumstances under which patrons can be refused entry or be asked to leave, and the cost if they do not comply.</p>
	<p>Poster: Gang colours not permitted</p> <p>This A4 poster informs people wearing any form of clothing, jewellery or other accessory associated with a Gang that they will be refused entry or removed from a licensed venue. This initiative aims to support venues and liquor accords that have adopted a 'no colours' policy.</p>
	<p>Poster: Behave or be barred</p> <p>This poster informs patrons that the venue is participating in a multi-venue barring strategy, and troublesome behaviour may result in being barred from all venues in the area. The poster can be customised to include the names of the accord area.</p>
	<p>Staff memo: Refusing entry or removing a patron</p> <p>This easy to read memo provides staff of licensed premises clear and simple information on refusing entry or removing patrons from the premises.</p>

You can download the above posters and find further information at liquorandgaming.nsw.gov.au

Refusal of entry and patron bans/barring

Glossary

Banning Order: Formal order made under section 78 of the *Liquor Act 2007*.

Ban/Banning: The formal exclusion of a person from a premises under the *Liquor Act 2007*.

Bar/Barring: The exclusion of a person from a premises under common law.

Common law: A venue operator's inherent right to revoke an invitation for a person to enter or remain on their premises.

Discrimination: The unfair treatment of a person because they belong to a particular group of people or have a particular characteristic.

Fail to Quit: An offence under section 77 of the *Liquor Act 2007* for failing to leave a licensed premises (or vicinity of) when requested.

House Policy: Rules which set out acceptable patron behaviour.

Liquor accord: Industry-based partnerships between licensees and other stakeholders to introduce practical solutions to liquor-related problems in a local community.

Multi-venue barring: Where a person is barred (under common law) from multiple premises for an extended period in accordance with a set policy.

Multi-venue exclusion: Where a person is immediately barred from multiple premises for that trading period i.e. no more than 24 hours.

APP: Australian Privacy Principles established under the *Privacy Act 1988* (Commonwealth).

Place Restriction Order: A court order that prohibits the subject from entering specific places or districts for a specified term

PPIPA: *Privacy and Personal Information Protection Act 1998* (NSW).

Privacy Acts: *Privacy and Personal Information Protection Act 1998* (NSW) and *Privacy Act 1988* (Commonwealth).

Vicinity: Within 50 metres of the boundary of a licensed premises.'

Refusal of entry and patron bans/barring

Attachment A: sample multi-venue barring policy

Multi-venue barring policy

The [insert] Liquor Accord has implemented the following 'Multi-venue barring policy' to reduce alcohol related violence, anti-social behaviour and other alcohol related harm in and around licensed premises.

1. Persons who are involved in any of the following behaviour on or near accord venues may be subject to a barring under this policy:
 - a. violent, threatening or aggressive behaviour
 - b. anti-social or disorderly behaviour
 - c. vandalism, malicious damage or repeated disturbance
 - d. repeated intoxication
 - e. refusing to leave a venue when requested
 - f. use, possession or distribution of illegal drugs (or reasonable suspicion of), or
 - g. any criminal activity.
2. Any accord member can make an application to have a person barred from all accord venues by making a request to the Accord Chairperson. The request should include the name and address (if known) of the person for which the barring is sought and the details of the circumstances leading to the request. Where possible, the request should be accompanied by supporting evidence such as incident register logs, CCTV or witness statements.
3. Each case will be considered on its merits and determined by a panel of licensees ("the Panel"). Accord members who are from public sector agencies, as defined by the *Privacy and Personal Information Protection Act 1998*, will not participate in the Panel, or be provided information regarding the details of barred persons.
4. When considering whether to bar a person, the Panel will take into account:
 - a. the seriousness of each incident
 - b. the cumulative impact of all incidents
 - c. the acceptance or not of wrongdoing by the person
 - d. the likelihood of further incidents
 - e. any restitution or penalty already paid by the person, and
 - f. any other information which is relevant.
5. Any barring period will be determined in consideration of the guidelines adopted by the [Insert] Accord and attached to this policy. However, these are a general guide and should not be regarded as inflexible. Where appropriate longer or shorter periods may be agreed upon.
6. Each licensee of the [insert] Accord agrees to exercise their common law right to refuse entry or remove the person for the period determined by the Panel. This does not prevent licensees from implementing a longer barring period for their individual venue.
7. Barred persons will be notified in writing by the Accord Chairperson and given an opportunity to have the decision reviewed. Where the address of the barred person is not known, the accord will take all reasonable steps to ascertain the address and notify the person of the barring.
8. Any request for a review must be made in writing within 30 days of the date of the notification, addressed to the Accord Chairperson and include supporting statements/material. The barring period remains in effect until the review is determined.
9. The request will be determined by the Panel who may choose to invite written or verbal submissions from any relevant person.
10. The original requesting accord member will not sit on the review panel; however they will be given an opportunity to respond to any submission made by the barred person.
11. In reviewing the barring period, the Panel will give consideration to all relevant information in accordance with point 4 of this Policy. The Panel will then determine whether to uphold, remove or vary the barring. This could include increasing the barring period.
12. The barred person will receive written notification of the review decision, including confirmation of any barring period in effect.
13. A notice, as agreed upon by the Accord, will be displayed prominently near each entrance of all participating venues to notify persons of this Policy.
14. Any amendments to this Policy can only be made through the consensus of members of the [Insert] Accord, as detailed in the accord constitution.

Refusal of entry and patron bans/barring

Attachment B: Multi-venue barring policy worksheet

Multi-venue barring policy

Use this worksheet as a guide to developing your liquor accord's multi-venue barring policy.

When are patrons barred?

1. Which behaviours may lead to multi-venue barring, and what is the minimum barring period for each offence?

2. Is there any increased barring period for multiple/repeat offences?

How will the barring take place?

3. Who determines if a person is to be barred?

4. Who can make a barring application?

5. What information will be required?

6. When will applications be considered?

7. Will there be a review/appeal option?

Information sharing

8. How will the barred person be informed of their barring and the rules?

9. Who will coordinate barring notifications?

10. How will barring details be communicated to venue staff?

11. How will the privacy of the barred person be protected?

Staff training

12. How will staff training cover the process for barring?

13. How will staff be trained to remember when barring is complete and patrons are able to enter again?

Removal of barring

14. Are there any conditions to be completed by the patron before removal of barring?

Once the policy is written

15. What legal advice will be sought to check the policy?

16. How will the policy be communicated to patrons before and during its operation?


17. How, and how often, will the policy be evaluated?

Other questions

Use this space to record other questions or issues which arise in the meeting to develop the barring policy.

Refusal of entry and patron bans/barring

Attachment C: Sample multi-venue barring letter



[Name & Address of Liquor Accord]

[Date]
[Name & Address of person being barred]

Dear [Mr/Mrs/Ms] [Name]

Local licensees, through the [insert] Liquor Accord have been working to reduce alcohol-related violence, anti-social behaviour and other alcohol-related harm in and around their venues.

To help reach these objectives, the Accord has implemented a multi-venue barring policy. Under the policy, patrons involved in acts of violence, crime or serious anti-social or disruptive behaviour on or near their venues will be excluded from all Accord venues.

As a result of your behaviour, and in accordance with the multi-venue barring policy, Accord members have agreed to bar (exclude) you from their premises for a period of [months/years/indefinitely]. This barring takes effect from the date of this letter until [date].

The incident/s giving rise to the barring is/are:

Date	Location	Details

During this exclusion period each licensee will exercise their common law right to refuse you entry or remove you from their premises. A list of participating premises is attached for your information.

Should you be aggrieved by this decision then you can request a review by the Accord. Any request for review should be made in writing and sent to the above address. Please note that the barring period remains in effect until the review has been determined.

Yours sincerely

[Accord Chairperson]

Notes:

- ▲ This letter may be amended to suit the individual requirements of your accord, including accord logo.
- ▲ Do not use Police or any Government agency logos on your letters.
- ▲ Attach a listing of accord premises to your letter.
- ▲ An electronic version of this letter is available from liquorandgaming.nsw.gov.au

Refusal of entry and patron bans/barring

Attachment D: Sample media release



Media release

[Date]

[INSERT LOCATION] LICENSEES CLAMP DOWN ON BAD BEHAVIOUR

Hotels and clubs belonging to the [Insert location] Liquor Accord have agreed to ban troublemakers across all member venues under a multi-venue barring policy announced today.

[Insert location] Liquor Accord Chairman [Insert name] said licensees were teaming up to ensure a safe and enjoyable environment for patrons.

"While most patrons behave responsibly in licensed premises there is unfortunately at times a minority of people who demonstrate significantly inappropriate behaviour," [Mr/Ms Name] said.

"[Insert location] Liquor Accord members are committed to providing a safe, relaxing and enjoyable atmosphere for the vast bulk of responsible patrons by stamping out bad behaviour.

"As a result, a new multi-venue barring policy is being implemented across all liquor accord venues to allow licensees to protect both patrons and staff from troublesome behaviour.

"This means that problem patrons can be barred from all [insert location] venues under the local liquor accord either for a 24 hour period or longer if deemed necessary, including lifetime bans in extreme cases.

"The multi-venue barring policy aims to reinforce acceptable standards of behaviour in local venues and send a strong message to troublemakers – behave yourself or you're out the door – from all venues in [insert location]."

[Mr/Ms Name] said under the multi-venue barring policy a person may be ejected or refused entry to all licensed premises in [insert location] if they display:

- Threatening or aggressive behaviour
- Anti-social or disorderly behaviour
- Vandalism, malicious damage or repeated disturbance
- Repeated intoxication
- Refusing to leave a venue when requested
- Use, possession or distribution of illegal drugs
- Any criminal activity

"If a person is ejected or refused entry under the multi-venue barring policy and fails to comply they are committing an offence under the *Liquor Act 2007* and may be issued with a \$550 penalty notice or face a potential maximum court penalty of up to \$5,500," [Mr/Ms Name] said.

"The message is simple," [Mr/Ms Name] said. "Behave or be barred."

This policy builds on previous initiatives by [insert location] Liquor Accord. [Insert details].

The next local Liquor Accord meeting will be held on [Insert date] at [Insert location] at [Insert time] [am/pm].

[Insert contact details]

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