

Fact sheet FS3006

Violent venues scheme

If you're a liquor licensee, you need to know about the violent venues scheme, which has operated under Schedule 4 of the *Liquor Act 2007* since 1 December 2008. The scheme is designed to regulate licensed premises with high levels of assault and other violent incidents. Please note that the procedures outlined in this fact sheet may be modified by the Government at any time. We will notify all venues if this occurs.

You can find historical details about the scheme, including lists of violent venues for each round, at liquorandgaming.nsw.gov.au.

Scheme overview

Under the violent venues scheme, licensed premises with high levels of alcohol-related violent incidents will be in one of these three categories based on the latest 12 months of alcohol-related violent incident data compiled by the NSW Bureau of Crime Statistics and Research (BOCSAR):

- ▲ Level 1 (generally 19 or more incidents)
- ▲ Level 2 (generally 12–18 incidents)
- ▲ Level 3 (generally 8–11 incidents).

Special licence conditions (such as, cessation of alcohol service 30 minutes prior to close, or no shots and drink limit restrictions after midnight, etc.) are imposed on Level 1 and Level 2 venues under Schedule 4 of the *Liquor Act 2007*. Level 3 venues are effectively put on notice that they are near the threshold for regulatory intervention under Schedule 4, and are encouraged to develop or review their venue safety plans. You should go to the liquorandgaming.nsw.gov.au for information on how to conduct a risk assessment so you can identify appropriate ways to reduce the risk of alcohol-related violence at your premises.

Rounds of the scheme commence on 1 June and 1 December each year.

Notification of alcohol-related violent incident data

In March and September each year, BOCSAR provides L&GNSW with the latest 12 months of alcohol-related violent incident data. Data it provides in March relates to the previous calendar year, while data it provides in September relates to the previous financial year.

Before each round, L&GNSW writes to the licensee of each licensed premises that has recorded eight or more alcohol-related violent incidents in the latest 12 months of data. This is to notify you of your venue's possible categorisation as a Level 1, 2 or 3 venue in the next round of the scheme based on the total number of recorded incidents. For venues with a possible Level 1 or Level 2 category, advice includes further information about each incident, including event number, time and date of incident, and incident category.

The advice is usually sent to licensees in mid to late March and September of each year.

For existing Level 1 and 2 venues, the total number of recorded incidents will include some incidents attributed as part of the round of the scheme underway at the time. It may also include late reported incidents that occurred during the reporting period.

Licensed premises with 12 or more incidents (possible Level 1 and 2 venues) will be invited to review the incidents with police to assess whether an incident should be attributed to their venue. The approach to attributing incidents and review process is discussed below.

Attributing incidents

The circumstances of incidents vary greatly, and each incident must be considered on its merits. In general, the key considerations assessing whether an incident should be attributed to a particular licensed premises are:

- ▲ whether the incident meets the definition of a 'criminal incident'
- ▲ whether the incident falls within one of the categories of 'violent criminal incidents'

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- ▲ whether the incident is 'alcohol-related'
- ▲ whether the incident has occurred on the licensed premises, applying the police concept of 'on licensed premises'.

For the specific meanings of all these terms, refer to 'Definitions of terms' in this fact sheet.

Process for reviewing incidents

We encourage you as licensee to meet with your local licensing police regularly to discuss incidents at your venue and not simply as part of this scheme, particularly if you have concerns about the risk or impact of alcohol-related violence.

Before each round commences, licensed premises with 12 or more incidents in the latest 12 months of alcohol-related violent incident data (possible Level 1 and 2 venues) can review incidents with local licensing police to help assess whether an incident should be reviewed and attributed to their venue. However, incidents that were reviewed and attributed in the previous round of the scheme cannot be reviewed again and will remain attributed to the venue.

The police review process is multi layered. It involves input from local licensing police, the Local Area Commander (LAC) and the police Alcohol and Licensing Enforcement Command (ALEC).

To review these incidents, you must submit a completed Request for Review form to your local licensing police in the timeframe advised in your notification letter from L&GNSW. Review meetings must be held within the timeframe specified in your notification letter.

When you go to the review meeting, make sure you take any material you believe would be useful, including any incident registers maintained on the premises.

At the review meeting, you will receive an outline of the information considered by the licensing officer, and you can view the COPS records for each incident being reviewed. Due to privacy issues, identifying details are removed and you won't be able to view COPS records on screen.

At the end of the meeting, the licensing officer completes a report (Form B), which they will provide to both you and the LAC. The LAC is responsible for initially assessing whether or not any reviewed incidents should be attributed to the venue for the purpose of the scheme.

The LAC's assessment is then forwarded to ALEC for finalisation of the police assessment. ALEC's involvement in the incident review process ensures the incidents are assessed in a consistent manner.

The final police assessment will indicate if there is any change to the number of incidents attributable to the venue, and will include an outline of the information considered in the assessment.

ALEC then sends a copy of the final police assessment to both you and L&GNSW to advise the Government for the purpose of categorising venues under the scheme.

If the final police assessment indicates that a reviewed incident remains attributed to your licensed premises, ALEC will provide copies of the relevant records from the COPS database (with any third party personal information and health information deleted). Licensees do not need to submit an application under the *Government Information (Public Access) Act 2009* to obtain this information.

Submissions to Liquor & Gaming NSW

If you don't agree with the final police assessment, you can make a submission to L&GNSW setting out the reasons you disagree. We will consider your submission, having regard to the approach described above for attributing incidents, in providing advice to the Government for the purpose of categorising your venue.

However, we will only consider submissions about incidents previously raised with police in accordance with the review process above and which have not previously been reviewed and attributed to your venue.

Refer to this fact sheet and include any supporting material in your submission that may assist our consideration. Please label supporting material, e.g. CCTV footage, to identify relevant information for consideration.

In most circumstances, we will not change the final police assessment in providing advice to the Government unless a licensee is able to provide evidence or information that demonstrates that an incident should not have been attributed to the licensed premises based on the approach described above.

The final police assessment generally does not change when licensees' submissions are based on one or more of the following arguments:

- ▲ the extent of any injury that arises from an assault is or is not significant

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- ▲ the nature of an assault is purported to be trivial
- ▲ police did not investigate or prosecute the incident
- ▲ the offender was not identified
- ▲ CCTV footage is determinative
- ▲ the reporting of the incident to police was delayed
- ▲ the venue has no record of the matter
- ▲ CCTV records have not been retained by the venue.

Categorising venues

After the incident review process, the Government will generally categorise a licensed premises as:

- ▲ a **Level 1 venue** if it has 19 or more incidents attributed to it
- ▲ a **Level 2 venue** if it has between 12 and 18 (inclusive) incidents attributed to it
- ▲ a **Level 3 venue** if it has between 8 and 11 (inclusive) incidents attributed to it.

Existing Level 1 and 2 venues

For existing Level 1 and 2 venues, the Government will also consider the adequacy of their venue safety plan and compliance history, particularly when determining if a venue should be removed from Schedule 4 because it has between 8 and 11 incidents attributed to it.

The purpose of the venue safety plan is to set out how the risk of alcohol-related violence will be reduced at the licensed premises. Existing Level 1 or 2 venues that do not provide an adequate venue safety plan, which has been revised from the previous round to identify the key risk factors that would be affected if the special licence conditions were removed, may remain on Schedule 4 as a Level 1 or 2 venue.

Sporting stadiums

Due to the unique scale and nature of their operations, sporting stadiums will generally not be categorised under the scheme. Many of these sporting venues operate comprehensive plans for alcohol and security management, and work closely with L&GNSW and police around major sporting events.

Venue safety plans

All licensees that receive notice of their venue's possible categorisation as a Level 1 or Level 2 venue are required to submit a venue safety plan. The plan should be succinct, but comprehensively list the key risk factors for the venue and how it is proposed to address them.

When you develop your venue safety plan, you should take into account areas identified for improvement and the venue's compliance history so that the plan can specifically address the highest risks. You should review the effectiveness of your venue safety plan after three months, and again at least every six months.

The format of the plan up to licensees. However, to assist, template venue safety plans have been developed by industry peak bodies. These templates are available from the liquorandgaming.nsw.gov.au.

Your venue safety plan must be submitted within the timeframe specified in your notification letter.

Level 1 and 2 venues

Licensed premises categorised as a Level 1 or 2 venue by the Government are listed in Schedule 4 of the *Liquor Act 2007*, and are required to comply with the special licence conditions set out below.

Category	Special licence conditions
Level 1 19 or more incidents	<ul style="list-style-type: none">▲ A mandatory 1.30am lockout of patrons (except members of registered clubs).▲ Cessation of alcohol service 30 minutes prior to close.▲ No glass containers to be used after midnight.▲ No shots and drink limit restrictions after midnight.▲ 10-minute alcohol sales time out every hour after midnight or active distribution of water and/or food.▲ One or more additional security measures.
Level 2 12–18 incidents (inclusive)	<ul style="list-style-type: none">▲ Cessation of alcohol services 30 minutes prior to close.▲ No glass containers to be used after midnight.▲ 10-minute alcohol sales timeout every hour after midnight, or active distribution of water and/or food.

All Level 1 and Level 2 venues must maintain a standard trading period incident register in accordance with section 56, and clause 7A, Schedule 4 of the *Liquor Act 2007*.

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Level 3 venues

Level 3 venues are encouraged to develop or review their venue safety plans, and should conduct a risk assessment to support the development of appropriate measures to reduce the risk of alcohol-related violence at their premises.

Imposing special licence conditions before midnight

The Secretary of the Department of Industry can impose the special licence conditions, including the glass and drink restrictions, on Level 1 and 2 venues from 10pm (or later) on any day of the week. This may occur where the Secretary is satisfied that alcohol-related violence has occurred on the premises during that period and day of the week.

If such action is taken by the Secretary, the licensee will be served with a written order that specifies the period and day(s) when the specified special licence conditions must be complied with.

Exemption from special licence conditions

Following categorisation as a Level 1 or 2 venue under Schedule 4, licensees can seek an exemption from The Secretary of the Department of Industry from one or more of the special licence conditions for the whole licensed premises or a specified part of the licensed premises.

To be considered for an exemption for the whole licensed premises, you must propose an alternative condition(s) that will be more effective in reducing the risk of alcohol-related violence in or about the premises than the condition for which the exemption is sought. The exemption will be granted and remain in force if the alternate condition(s) are imposed by The Secretary of the Department of Industry.

To be considered for an exemption for part of a licensed premises, you must demonstrate to the Secretary that:

- ▶ the risk of alcohol-related violence is low in that part of the premises
- ▶ an exemption would not increase the risk of alcohol-related violence in that part of the premises
- ▶ adequate measures will be in place to minimise the risk of alcohol-related violence occurring in that part of the premises.

When considering an exemption that applies to part of a licensed premises, the Secretary will generally have regard to the type of business offerings provided in the specified part of the venue, any attributed incidents that have previously occurred in that area, and any information provided by the police in respect to the exemption request.

While each exemption request is considered on its own merits, exemptions for part of a licensed premises will generally only be granted where the offering and risk indicators are clearly distinguished. This may include dedicated function rooms (for bona fide functions), and small boutique lounge and bar areas where it is demonstrated that low-risk business offerings are provided and violent incidents do not usually occur.

Withdrawal of an exemption

You need to be aware that the Secretary may consider withdrawing an exemption for part of a licensed premises in some circumstances. Circumstances may include, but are not limited to, where:

- ▶ there is a spike in alcohol-related violence that is recorded by police
- ▶ the risk of alcohol-related violence has increased in the exempted part of the premises due to a change in the way the venue is operated.

When considering such action, regard will be had to information that is provided by the NSW Police Force, L&GNSW and the licensee of the premises.

Where to send your plan and submission

Send both to the Compliance Operations Unit, L&GNSW. Please send your submission within the timeframe specified in your notification letter.

✉ safe.premises@liquorandgaming.nsw.gov.au (preferred)

✉ Compliance Operations Unit
Liquor & Gaming NSW
GPO Box 7060
Sydney NSW 2001

For more information about any aspect of the violent venues scheme and how it works, email the Compliance Operations Unit at safe.premises@liquorandgaming.nsw.gov.au.

Definitions of terms

Alcohol-related violent incident data Alcohol-related violent incident data consists of 'violent criminal incidents' that are recorded by the NSW Police Force ('police') as 'alcohol-related' and as having occurred on 'licensed premises'.

Criminal incidents BOCSAR defines a criminal incident as an activity detected by or reported to police, which:

- i. involved the same offender(s)
- ii. involved the same victim(s)
- iii. occurred at the one location
- iv. occurred during one uninterrupted period of time
- v. falls into one offence category
- vi. falls into one incident type (for example, 'actual', 'attempted' or 'conspiracy').

Here's how BOSCAR describes the way police record criminal incidents:

Whenever someone reports a crime to police, or police discover what they believe to be a crime, police generally record it. These records of crimes reported to and recorded by police form the basis of police crime statistics. Among other things, each record contains information on the nature of the recorded crime, the circumstances in which it occurred, the location of the crime, the time it occurred, whether the offender was armed with a weapon, what sort of weapon was involved, whether the offender appeared to be affected by alcohol and, if something was stolen, the nature of any object stolen.

NSW Bureau of Crime Statistics and Research,
Uses and abuses of crime statistics, November 2011

Violent criminal incidents BOCSAR classifies as violent criminal incidents include a wide range of police incident categories based on the Australian Bureau of Statistics' Australian and New Zealand Standard Offence Classification (ABS2011 Cat. No. 1234.0), including:

- ▲ actual bodily harm
- ▲ aggravated indecent assault
- ▲ aggravated sexual assault
- ▲ assault

- ▲ assault officer
- ▲ assault with intent to have sexual intercourse
- ▲ grievous bodily harm
- ▲ indecent assault
- ▲ kidnapping
- ▲ manslaughter
- ▲ murder
- ▲ riot and affray
- ▲ sexual assault
- ▲ shoot with intent to murder
- ▲ violent disorder.

Alcohol-related Usually a violent criminal incident occurring on licensed premises will be assessed as alcohol related unless it is apparent that the consumption of alcohol did not contribute to it.

Each case must be considered on its merits, but here are some examples of incidents that have previously been assessed as not alcohol-related, despite occurring on licensed premises:

- ▲ the incident occurred at an under-age event where alcohol is not sold or supplied
- ▲ the incident involved people seeking entry to the venue, and the venue's management of the queue and the handling of the incident did not contribute to the incident or make it worse
- ▲ the offender was not a patron of the venue (NB anyone seeking entry to a venue is considered to be a patron)
- ▲ the incident involved domestic violence, or other longstanding family or interpersonal conflict, and alcohol was not a contributing factor
- ▲ a patron reports being assaulted by venue security, and it is apparent that reasonable force has been used to lawfully escort them from the venue and alcohol did not contribute to the reasons for the patron being escorted from the venue.

On licensed premises Police consider an incident to have occurred on licensed premises if it occurs:

- ▲ on the licensed premises itself
- ▲ within 50 metres of the premises, where there is evidence of direct involvement with the venue.