

Liquor & Gaming NSW

Responsible Service of Alcohol (RSA) course
Supplementary handout

Drink spiking and sexual violence

Staff have a duty of care to patrons and other staff members to ensure venues are free from harassment, violence and assault.

Sexual violence and drink spiking

Everyone who works in a licensed premises, including security staff, has a crucial role to play in making sure nights out are as safe and enjoyable as possible. Responding with care and compassion when someone tells you about any kind of inappropriate behaviour they have witnessed or experienced is a key part of this. In 2021-2022, 30% of reported instances of in-person sexual harassment against women happened in entertainment or recreational settings, like venues, pubs and clubs.¹

Staff have a duty of care to patrons and other staff members to ensure venues are free from harassment, violence and assault.

Definitions

Sexual harassment can mean unwelcome sexual advances, requests for sexual favours or sexual conduct where a person is offended, humiliated or intimidated.²

Sexual touching is any non-consensual act of unwanted physical contact of a sexual nature.

Sexual assault is how the law in NSW describes non-consensual penetration or rape.

Drink spiking is when a person deliberately adds alcohol or another drug to someone's drink without their knowledge or permission. Alcohol is the drug most commonly used in both drink spiking and drug-facilitated sexual assault whether added to an alcohol or non-alcohol-based drink. This could involve buying someone double shots without their knowledge or refilling their drink without their knowledge. However, drugs such as benzodiazepines (sedatives), ketamine and GHB/GBL may also be added to a drink. Especially when combined with alcohol, these can suppress the body's nervous system, quickly leading to unconsciousness and in extreme cases, respiratory failure and cardiac arrest.

Drink spiking, sexual assault and sexual touching are criminal offences.

¹ Australian Bureau of Statistics. Personal Safety, Australia, 2021-22. Canberra: Australian Bureau of Statistics, 2022.
<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>

² New South Wales Government, NSW Sexual Violence Plan 2022-2027. Department of Communities and Justice, 2022.
<https://dcj.nsw.gov.au/documents/service-providers/domestic-and-family-violence-services/NSW-Sexual-Violence-Plan-2022%E2%80%932027.pdf>

Who can it happen to?

Research tells us that women and LGBTQ+ people are disproportionately the most likely to be targeted by both sexual violence and drink spiking, while perpetrators are most likely to be men.³ However, sexual violence and drink spiking can happen to anyone. All victims of sexual violence and drink spiking deserve support, care and a non-judgemental response. 94% of reported sexual assaults are committed by someone familiar to the victim.⁴

Alcohol and consent

In a venue, an unacceptable interaction or an incident of harassment or assault happens when a person does not consent, including circumstances in which are not free and capable of consenting. Sexual touching (once known as indecent assault) includes a wide range of sexual offences not involving penetrative sex, such as kissing a person when it is clear the kiss is unwanted. The law says that a person must freely and voluntarily consent by making an active, ongoing choice.⁵

It is important to note that peer pressure and imbalanced power dynamics may mean that a person is not free and capable of consenting. For example, if a patron is approached by a group of men rather than an individual, this changes the power dynamic.

Alcohol, as well as the overconsumption of any other substance, can mean a person is no longer capable of consent. There is no single blood alcohol level indicator for this, but visual indicators can include being unable to walk, slurred speech, or behaviour that is unusual for that person.

Perpetrator tactics: Opportunist and the Planner

Research tells us that women and LGBTQ+ people are disproportionately the most likely to be targeted by both sexual violence and drink spiking.

Opportunistic perpetrators will place themselves in a space where they are able to exploit situations as they arise by taking advantage of situations 'in the moment'. This could look like exploiting a crowded space by groping someone's body without being seen, targeting or isolating someone who is disoriented or visibly drunk as they are less inhibited and seen as less likely to be believed if they report what happened.

Planned perpetrators are more likely to have deliberate strategies they have used many times, such as grooming tactics like building trust through charming or buying drinks, false offers of help for already vulnerable people, like pretending to know someone who appears to lead them away from staff or bringing drugs with intent to spike a drink. Drink spiking is one example of the tactics of a planned perpetrator, although this may not always lead to sexual harassment, sexual touching or sexual assault.

Response protocol

It can be much harder to share an experience of sexual assault, sexual touching, sexual harassment or drink spiking with bar staff or security, compared with other common nightlife crimes e.g. reporting being groped on a dancefloor as compared to reporting a stolen wallet. This can be due to additional barriers like fear of being blamed, or not being believed, or of

³ Australian Bureau of Statistics. Personal Safety, Australia, 2021-22. Canberra: Australian Bureau of Statistics, 2022.
<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>

⁴ New South Wales Government. NSW Sexual Violence Plan 2022-2027. Consultation

⁵ Section 61HA of New South Wales Government. Crimes Act 1900 (NSW). Current as of 2024.
<https://legislation.nsw.gov.au/view/html/inforce/current/act-1900-040>

the sexual harassment escalating into physical assault (such as sexual assault or sexual touching). Staff in licensed premises have an obligation to take every report seriously. Remember, you do not need to be certain if any specific crime has been committed before you act to intervene in a situation you witness or hear of that you are concerned about.

If a customer tells you they have been sexually harassed or assaulted, or that they suspect they may have been spiked:

- **Listen:** Make time, avoid judgment and be mindful of their wishes and wellbeing.
- **Show your Belief:** e.g. "Thank you for sharing with me."
- **Validate:** "That is not okay" or "We have a policy to deal with that" or "I'm so sorry you have experienced that."
- **Respond actively:** "How can I best help you? I'm going to do what I can to assist you."

Actions to take:

- Where possible, work with another member of staff to support the victim.
- Offer them a quiet place to sit away from crowds, checking if they feel safe.
- If there is a support person for the victim, and you are unsure if the support person is a friend or trusted individual, ask them if they know the affected person's full name. If in doubt, intervene, and don't leave the victim alone.
- Try to avoid making them repeat the story. You can do this by asking their permission to pass this information to other people who can help and explain why, e.g. security.
- Ask about any injuries or physical needs they may have.
- Ask them the identity of the perpetrator, if known. If the person is a current or former intimate partner, be mindful of

your safety and the safety of others, due to particular risks related to domestic and family violence.

- Explain that you will be taking action in line with venue's policy and speak to your manager to plan an appropriate response, taking the victim's wishes into account.

Remember, if you witness or are told about a concerning situation, you do not need to be certain if a crime has been committed before you act to intervene.

Drink spiking incidents

Whether you are worried about an individual's welfare due to their physical state or behaviour, or have been approached by someone with concerns, it is important to remain curious and vigilant. As spiking can appear similar to intoxication, it is important to provide care and medical attention regardless of whether we personally believe, or do not believe, that the person's drink has been deliberately spiked. Suspected drink spiking can be traumatising. After meeting immediate needs such as first aid and water, support them to find friends and plan a journey home, making sure they can be accompanied by someone they know and trust. Remember that it is possible the person's drink was spiked by someone they know, so don't assume all friends are trusted supports for the victim. Work with the victim to identify people they trust.

Gather all information and evidence

If emergency services are attending an incident, ensure you have all information to hand and avoid requiring the victim to verbally repeat their experience unless directly necessary.

Reassurance and support whilst acting quickly and professionally also provides the greatest possible chance of apprehending an alleged perpetrator. Any CCTV recordings should be preserved. It is best practice to keep a record of any actions taken in response to a report in your incident register, even if you are not required by law to do this.

A licensed premises is required to report any potential crimes to NSW Police. **However, it is a victim's personal choice whether they engage with this process. They are under no obligation to do so and have a right to leave the premises.**

Explain to the victim why you will be making a report and that they and others will have the option to provide a witness statement. Give them the option to share their identity with you and share venue contact information (not your personal details) and specialist support services so they have a way to follow up and access support in the future. Support services for victims of sexual violence and drink spiking are listed at the end of this section.

Working with emergency services on drink spiking

If you have reason to believe a drink spiking may have taken place, report this to the Police and emergency services as soon as possible.

Provide options and explain to the affected individual that confirming the presence of any substance in their body through testing is time limited and usually requires a urine sample, which can be undertaken at a police station or medical centre.

If using commercially available testing kits, strips or any other tool to test a drink, be mindful that 'false negatives' and 'false positives' are common, and that accurate testing can only be undertaken in a lab setting. It is not your role to confirm or deny whether spiking has taken place. Focus on the welfare of the affected person. Do not panic.

Advise Police and emergency services:

- if you have a potentially affected drink, container, clothing or other contents for further examination.
- if you are aware that the affected person has vomited.
- if a potential perpetrator has been identified or is still present.

Penalties for drink spiking and sexual violence

Drink spiking, sexual touching and sexual assault are crimes enforced by NSW Police, with serious penalties including harsh fines and imprisonment.

Venues that have recurring issues with drink spiking or sexual violence, will also incur demerit points under the Incentives and Demerit Point System. The system is designed to reward licensees, managers, and clubs with a clean record by discounting licence fees. Demerit points are imposed for those who commit serious offences under the Liquor Act 2007 or fail to provide a safe environment for patrons.

Scenarios

Scenario 1

Jenny and Mark

Mark is working as a security guard at a pub. He notices Jenny who is stumbling as she walks and needing to hold onto furnishing to support herself.

Mark remembers checking Jenny's I.D when she entered the venue with another lady earlier in the night. The other lady is sitting nearby with a couple of people. Jenny appears to be intoxicated, and Mark needs to determine if she will be required to leave the venue. When he approaches Jenny, he notices that her eyes are unfocussed, and her words are slurred.

Mark asks Jenny, "Hi, how are you doing? It looks like you may have had too much to drink, and I am going to have to ask you to leave the venue. Do you have a way to safely get home, or do you need me to arrange some transport for you?"

Jenny states "I have only had one drink; I don't feel right, I shouldn't feel like this, can you help me?"

Mark needs to:

- Listen and ensure Jenny is safe as his priority.
- Once Mark has gathered information, he will be in a better position to make an informed decision and provide the help that Jenny needs.

Discuss further as a group what steps Mark should take.

Scenario 2

Yumi and John

Yumi is with a group of colleagues at after work drinks in the venue you work in. She's aware that a man at the other end of the bar, John, has been staring at her since she arrived. At some point he approaches and offers to buy her a drink, but she declines. He attempts to engage the group in conversation a few times as he walks past on the way to the gaming machines.

Later in the evening, John approaches the bar while Yumi is ordering and tries again to pay for the drink which your colleague has just served her.

He says, "Can't a guy even buy a pretty girl a drink anymore?!" and grabs her wrist as she goes to tap her card on the card reader. As he does so he touches her lower back with his other hand. You notice Yumi looks distressed and uncomfortable.

- What type of harassment or assault is happening here?
- How might Yumi be feeling?
- What is the most appropriate response from staff?

Scenario 3

Lisa and Nathan

Lisa is out at a club during Schoolies. Eventually, most of her group leave and Lisa is alone with Nathan and Anna. Lisa is already struggling to stand up and being helped by Nathan and Anna to walk. Nathan is buying the rounds because Lisa was refused service at the last bar they were in for being too drunk. He is buying doubles.

At one point, Anna sees a friend and walks off to greet them. Nathan begins to kiss Lisa and touch her sexually. Lisa does not appear to be actively reciprocating Nathan's actions and looks confused.

- What type of harassment or assault is happening here?
- How might Lisa be feeling?
- What could a helping response look like from staff?

Services and support contacts

Maintain a list of local services to contact in the event of an incident. These can include:

- Police/Emergency Services Triple Zero (000)
- Police Non-Emergency Assistance (131 444)
- Crime Stoppers (1800 333 000)
- Your local Police station's direct number
- Local taxi service

Also maintain appropriate references to share with victims. These can include:

- 1800 424 017 – 24/7 NSW Sexual Violence Helpline providing counselling, information and referral for anyone affected by sexual violence, including venue staff.
- 1800RESPECT –24/7 national domestic, family and sexual violence counselling, information and support service.
- NSW Health [Sexual Assault Services](#) - a network of specialist services delivered by local health districts
- [Online Sexual Assault Reporting Option](#) (SARO) – available for online anonymous reporting of an incident.