



NSWSDPA Conference 2008

**School Formal Liability Minimisation
Workshop Notes**

Presented by Elliot Kleiner



Biography

From the late 1970's to the Mid 1980's, Elliot was a Radio & Television presenter with a specific popularity in the 10 to 17's age market.

In 1982, he was approached by the NSW Police Department to add his teen-market expertise to the launch of the Blue Light Disco programme.

Elliot's two years on that project added features & procedures that are still a staple of the Blue Light programme even today.

In 1986 Elliot trained in the Security & Protection Industry and gained valuable experience in dangerous weapons & contraband, search & seizure procedures, crowd control and the applied street psychology of teenagers.

1989 saw the launch of Elliot's function-service supply company, working in strategic alliance with Major 5-Star Hotel chains throughout Australia. This company eventually became the catalyst for creating the ultimate "packaged" Event Management system for High School aged Minors. This was to eventually become the School Formal Icon known as "Prom Night Events". Today Prom Night is Australia's Market Leader.

In 2003, Elliot was called to a meeting in the office of the NSW Minister for Gaming & Racing, attended also by representatives from the Premier's Office, The Commission for Youth & Young People, and Special Minister of State.

At this meeting, Elliot presented a procedural guideline model for the safe, legally compliant and successful execution of Minor's Functions in licensed premises. That presentation was later submitted as a legislative reform proposal by the Commission for Youth & Young People to the 2003 Alcohol Summit at Parliament House.

A father of two teenage boys himself, Elliot Kleiner is an expert in functions and major events, major venues, event security and teenage marketing. There is no other person in this state with his level of experience in conducting every aspect of High School Formals and Minor's Functions.

Today, Elliot is considered the consultant of choice for the media and is first contact for media agencies wishing to conduct any story relating to the High School Formal market.

Legal Ramifications of organising a formal event

There are three figures that might get your attention...

1. The School Formal Industry grossed \$155M last year in Sydney alone.
2. 86% of all School Formals refused permission by the school's administration will take place anyway, and be booked in the school's name.
3. 92% of all Formals Conducted in Sydney in 2005 were illegal and therefore uninsured, thus exposing the school to potential liability.

What Elliot brings to the conference is an audience-interactive presentation that will help to highlight the dangers and pitfalls of High School Formals, Debutante Balls, Valedictory Dinners and other social events concerning your students and staff. Don't be naive, they're happening, like it or not.

The issues relating to licensing, security, alcohol & contraband, legal compliance relating to duty of care and, most importantly, the safety of the kids are far more complex and difficult to manage than you might imagine.

Any of them overlooked or mismanaged will directly or even inadvertently expose schools and individuals to legal and financial liability.

Elliot's proven methodology is currently the only model accepted in three states as best practice for the industry and applies simple remedy to these problems.

You will learn how to walk the tightrope that stretches between adept and responsible management of the events and the glamorous, fun aspects that appeal to the teens.



Disclaimer: Prom Night Events, and it's affiliates, states unequivocally that it does not offer bona-fide legal advice or counsel via this presentation, rather it states facts and understandings associated with it's experience with certain aspects of legislation as applied specifically to the area minors functions on licensed premises in New South Wales.

14 Common Misconceptions about High School Formals.

Despite What You've Heard...

- 1/ The Board of Studies DOES NOT prohibit school officials from being involved in formals.**
- 2/ This year in Sydney, over 130,000 teens will attend ILLEGAL formals and expose 368 high schools to liability.**
- 3/ Without the schools approval, 86% of Formals will go ahead regardless, and will be booked in the school's name.**
- 4/ Formals booked without the use of the school's name, STILL expose the school to potential legal and financial liability.**
- 5/ Teachers and School Staff ARE NOT permitted to supervise or secure Formals on licensed premises - ever!**
- 6/ Formals ARE NOT official school events and are not covered by school insurance.**
- 7/ Students who drink liquor and use illicit drugs exist at ALL high schools.**
- 8/ 92% of Formals organised by school officials or students without professional help are ILLEGAL , and therefore uninsured.**
- 9/ Formals are HARDER to organise than weddings.**
- 10/ Of all venues accepting Formal bookings, less than 9% are legally permitted to do so.**
- 11/ 94% of student committee members consider security as LOWEST priority. 91% of teachers consider security as HIGHEST priority. Less than 1% of either considered legal compliance at all.**
- 12/ Pre-Formal Drinks are NOT someone else's problem.**
- 13/ "Working with Children Check" applies to EVERY adult that works or volunteers at Formals.**
- 14/ It can take hundreds of hours of work to organise a Formal without professional help.**

Workshop:

For those interested in the source of the stats quoted from time to time, these were compiled by our national management company ELK & Sons Consolidated over a 7 year period based on the Sydney Metropolitan experience. These results were dubbed to be the most accurate snapshot yet taken of the state of the industry. Mainly because it's the only in-depth study done so far on this subject.

Scenario: A 16 year old girl has a promising modelling career already under way. She's done magazine shoots for her face but has no catwalk experience yet. As a result, she's never before worn stilettos but has just purchased a brand new pair to go with her designer dress for formal night.

She's all excited about the glamorous affair and skips around the venue having photos taken with her friends and doesn't notice that the dance floor has a shiny, hard parquet surface. She's holding a glass of mineral water and strides on to the dance floor and immediately slips, rolls and snaps an ankle, then lands face-first on the glass slicing open her pretty face and taking out 2 teeth in the process.



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Let's talk for a moment about what we like to call the "**Ostrich Mentality**". "If I can't see it, it can't hurt me". So let's apply that rationale to your phone bill. "If I don't open the envelope, the problem should simply disappear." Right? Wrong!

If a formal takes place without your approval and guidance, there's a far greater chance that something will go wrong, simply for the lack of due diligence, yet the school can end up in the firing line either way. Doesn't it make much better sense to learn what you can do to minimise the potential problems, then give the project a little attention to ensure that the greatest number of risks have been addressed properly? I think we can agree that this is probably the best policy overall.

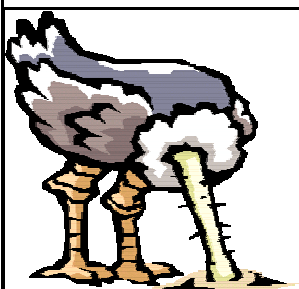
Only 8% of formals are traditionally compliant with state law. Just for the record, of those 8%, my company covers 7 of those percentage points leaving only 1% of formals where the people who did it themselves got successfully over the line to a legal and fully insured event. **Isn't that interesting?**

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Ostrich Mentality at work...

“Oh we’ve been running our formals with the same venue and under the same conditions for years and we’ve never had a problem.” Let’s address the sense of that kind of statement in context. If someone said to you...***“Oh we’ve been driving the school bus with bald tyres, dodgy brakes, no lights, no registration and no insurance, with a drunk driver who has no license... for years and we’ve never had a problem.”***

Just take a moment to think about one simple fact. **When doing something dangerous continually over a long period of time, the level of risk doesn’t diminish the longer you get away with it.**



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There are around 400 registered high schools in the Sydney metropolitan area. All will have a year 12 event of some sort, more than half will have year 10 events and almost 20% will have year 11 events. A small percentage will have more than one event because there may be multiple committees of teens disagreeing with each others plans and deciding to invite the year to each event in the same year.

With or without school guidance, 92% of them will be in breach of some law or other and some of those will go wrong. That is to say that every year, someone some venue holds a formal where a mishap results in a litigation. It’s a gamble, and the odds may seem favourable to you but I’m here to show you how to reduce that risk at worst, and eliminate it altogether at best.

The school formal industry turned over \$155.5 Million last year in Sydney alone. That’s substantially more than some of our top national industries, and we’re only talking about Sydney. Can you imagine what that figure is nationally? The mind boggles.

So that means there’s real money to be made especially if you know the market.

Think of a casino. Plenty of razzmatazz, buckets of cash and an unlimited supply of novices just begging to be relieved of their money. This environment attracts the top end of society along with the riffraff and like a casino, for every reputable operator, there’s 100 dodgy ones and they all seem to look the same at a glance.

So - how can you tell who to deal with and who to avoid? It’s not easy.

The thing to keep in mind is that the inexperience of the market is a magnet for unscrupulous players seeking a fast buck selling things that don’t serve anyone’s best interests but theirs.



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In my industry tenure I've seen multiple companies, venues, event planners and others come and go, all selling any variety of illegal products and services. They're out there, trust me, their aggressively marketing things aimed squarely at **your** students knowing full well that it's wrong to do so.

Why do you think that my company is the only one that engages schools at the top-level of administration and faculty, rather than pursuing the kids? We're the only ones 100% confident under scrutiny, that's why.

Let's go for the obvious. First up, pick a venue.

Don't think all high-profile venues are the best way to go. There are far more of them selling formals without the proper licenses than there is doing it legally. Go through a checklist of items that must be in order before a formal should go forward. Any of these, if left unchecked, may render your event illegal and the school liable.

Checklist

- 1/ Is the venue a bona-fide function facility?
- 2/ Is the venue easily accessible by patrons seeking to use public transport?
- 3/ Does the venue accommodate disabled patrons?
- 4/ Can the venue produce proof of Public Liability Insurance to the minimum value of \$20M cover?
- 5/ Can the venue produce proof of subscription to APPRA, AMCOS & PPCA for the performance of recorded or live music?
- 6/ Does the venue have updated & checked fire-fighting equipment & fire & smoke alarms?
- 7/ Does the venue hold a Permanent On-Site Liquor License?
- 8/ Does the venue hold the appropriate permit to undertake formals?
- 9/ Is every manager or supervisor of your formal over the age of 21 years?



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- 10/ Has **every** adult working at your formal passed the "Working with Children" Check?
- 11/ Does the venue and it's staff have a tested fire & evacuation procedure?
- 12/ Can every supplier of consumable (Non-Food) items produce a "Safety Fact Sheet" on what they're supplying?
- 13/ Can every person plugging any electrical item into mains power produce proof of "Safety Compliance" with each power lead appropriately tagged by licensed electrical inspectors?
- 14/ Does every piece of electrical equipment carry the "Australian Manufacturers Standards Compliance" marking?
- 15/ Can every supplier of any item rigged or fixed above the heads of guests produce a valid "Riggers Certificate"?
- 16/ Can the venue, or the rigger of any heavy item overhead produce a "Stress & Weight Rating" certificate for such rigging?
- 17/ Has every item or substance being provided been checked so as to eliminate any slip or trip hazard?
- 18/ Has every food item being provided been prepared handled and served by licensed & certified food preparation entity?
- 19/ Has the event been promoted as being only accessible by pre-sold ticket, and have such tickets been produced?
- 20/ Has the event been promoted explicitly without any reference to alcohol that may be available?
- 21/ Have sufficient steps been undertaken to ascertain whether guests have been consuming alcohol prior to attendance?
- 22/ Have sufficient steps been undertaken to ascertain whether guests are carrying alcohol into the premises?
- 23/ Have you prepared the mandatory signage relating to alcohol that must be displayed at the entrance to venues?
- 24/ Has the local area Police Command been notified in writing as to the details of the event?
- 25/ Has a written register been kept of every person issued a ticket that can be checked against those who attend?
- 26/ Have sufficient steps been undertaken to ensure that minors are not sharing any public areas with unauthorised people?
- 27/ In circumstances that require minors to be in the presence of loco-parentis, has this been sufficiently addressed?
- 28/ Has the formal been scheduled to start and finish between 7 pm and Midnight?
- 29/ Have sufficient steps been taken to satisfy "duty of care" for guests arriving and leaving the formal?

- 30/ Has catering been done with special provision for food intolerances, vegetarian preferences or religious restrictions?
- 31/ Has all business pertinent to the formal complied completely with Trade Practices Legislation?
- 32/ Are those undertaking supervisory or security roles properly licensed and bona-fide security officers?
- 33/ Can the security staff produce 1A & 1B Security Licenses?
- 34/ Can the security staff produce separate proof of Public Liability Insurance?
- 35/ Can the security staff produce "Responsible Service of Alcohol" accreditation?
- 36/ Can the security staff produce current Advanced or Senior First Aid certification?

Myths & Truths

This is where we get to address some of the rumours that float around the place and give you cut & dry facts.

Concern: Students attending a formal outside of school premises are not covered by any insurance in case of any incident.

This is a myth! Most events are all held in major high-profile establishments and not only are the venues covered by insurances on the highest levels, but professional organisers carry public liability insurance for security on top of that. If they don't, avoid them at all cost.

The *school's* policy is certainly **not** pertinent but it's also not necessary. That shouldn't be assumed though. Check the documents at the time you book.

Concern: High School Formals are always fraught with misbehaviour and drunkenness.

Truth and Myth: This may be true of some formals in years gone by but the truth is that there are some very tough legislative measures in place that are designed to prevent this sort of occurrence.

Although this area of the law is rather complex, it's prudent and sensible to simply would the service of alcohol completely at all events.

In most cases, if you survey the students, you'll find that the lack of alcohol is no deterrent from wanting to attend and more than you'd expect would actually prefer not to have it available. These days, students are more savvy about what can make or break a special night like this. Those that want to drink will often do so to excess and spoil things for everyone.

Concern: There has to be a guaranteed minimum number of Teachers or Parents present at every formal.

Rubbish! There **is** a minimum mandatory requirement imposed by the State for "supervising adults" but that doesn't mean teachers or parents. In fact such supervision from non-licensed personnel is illegal as we've discussed.

It is quite alright for formals to take place, under the law, without any parents or teachers in attendance at all. In fact, this is quite often the case with complete success.





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Concern: Individual School Official attending High School Formals must assume total responsibility for the guests while attending the event.

This is a myth! Any attending School Official would have no greater responsibility or duty on the night than any attending guest, student or partner.

Concern: By a school refusing to take part in arranging a formal, no such formal will take place, therefore, the schools good repute will remain in tact no matter what.

This is one of the most dangerous myths of all! Survey results have shown that 86% of schools that refused involvement have students who will go ahead and hold a formal regardless, AND in most cases will use the school's name in the process. The fact that the school does not sanction the event will not prevent it from taking place and if anything goes wrong, will not protect the school if a liability claim transpires OR the media happens to come across a worthy story. **YES! That's right!** Even if the school has no knowledge that the formal is taking place, legally it attracts liability if anything at that formal goes wrong.

Where many formals go wrong is simply that students are easy prey for disreputable people in the marketplace who seek to capitalise on their inexperience and produce less than adequately planned and controlled events.

We know of quite a number of firms that rely on school students to buy illegal event packages for their main source of income each season. They include many venues that also market heavily but don't even possess licenses to hold school events.

Make no mistake! The best way to avoid students travelling down a poor path is to advise them well and supervise their decisions, equipped with the facts and reputable assistance from well established and experienced professionals.

Concern: Events like formals are only really for elite private schools who's students can afford it.

Myth!: For the last 10 years, we have conducted more State school events than private schools.

The average ticket price for a formal in Sydney this year is \$135 per head and nobody has a problem paying that. For you to go out on a weekend, have a nice dinner in a 5-star restaurant, take in a show or a movie, go out dancing, then have a coffee & dessert later on would cost you more than that.

In most cases, the ticket price of events is far less than other items on the list of the average formal guest. Students will pay far less for their ticket price than they will gladly pay for things like make up, nails & hair, spray tans, bikini waxing, limousine rides and after parties.

This is often the most important event on their social calendar.

Concern: School students should never be placed under the supervision of those who have not been submitted to the mandatory screening process imposed by the Department of Education and Training under the N.S.W. Child Protection (prohibited employment) act 1998.

Truth: We agree wholeheartedly! That's why we recommend you check the "working with children check" credentials of everyone on the job.

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