

AGE RESTRICTED PRODUCTS

Laws prohibit the sale of certain products to persons under certain ages. This guidance is designed to take you through the requirements of the law and assist in compliance for the products that you sell.

From **page 6**, 'Preventing Underage Sales' gives important advice on what you and your staff should do to prevent sales of age restricted products to people who are under age:

Product	Only to be Sold to Those	Maximum Penalty	More Information
Alcohol	Over 18	Unlimited fine & forfeit of licence	Page 2
Tobacco products	Over 18	£2,500	Page 2
E-Cigarettes and e-liquids (nicotine inhaling products).	Over 18	£2,500	Page 3
Lighter refills containing Butane	Over 18	Unlimited fine & up to 6 months imprisonment	Page 4
Lottery tickets / Instant Win Cards	Over 16	Unlimited fine & up to 2 years imprisonment	Page 4
Fireworks	Over 18	Unlimited fine & up to 3 months imprisonment	Page 4
Aerosol Spray Paints	Over 16	£2,500	
Offensive weapons / knives	Over 18	Unlimited fine & up to 6 months imprisonment	Page 5
Films, video and computer games Classification: 12 15 18	Over 12 Over 15 Over 18	Unlimited fine & up to 6 months imprisonment	Page 5
Petrol	Over 16	Unlimited fine & up to 12 months imprisonment	Page 5

Alcohol

The Trading Standards Service, the Police and the local licensing authorities in the Boroughs and Districts jointly enforce legislation in relation to licensed premises.

- **It is a criminal offence to sell alcohol to anyone under 18.** The person who makes the sale, the Designated Premises Supervisor, personal licence holders and the company operating the business may be held liable for this offence.
- **Sale by a person under 18** – The licensee must not allow a person under 18 to make any sale of alcohol unless the sale has been specifically approved by the licence holder or by a person over the age of 18 acting on his behalf. Each and every sale of alcohol must be supervised and approved in this way.
- **Delivery of alcohol to a person under 18 on licensed premises** – It is criminal offence to allow alcohol to be delivered to a person under the age of 18 on licensed premises. If you are in a position to prevent alcohol being delivered to a person under the age of 18 on licensed premises and you fail to do so, you will commit a criminal offence. The exception to this is that an adult may purchase beer, wine or cider for a 16 or 17 year old who is having a table meal on licensed premises.

Age Verification Policy

Since October 2010 there has been a mandatory condition attached to all premises licences which authorise the sale of alcohol that requires the premises to have an **Age Verification Policy**. Trading Standards recommends that you include operation of a Challenge 25 scheme in your Age Verification Policy.

A sample Age Verification Policy can be found on pages 14-15 of this leaflet which you can copy and use at your premises.

Penalties for Underage Sales of Alcohol

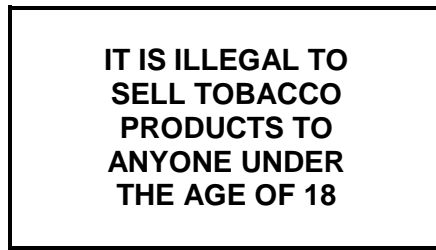
The person who makes the sale, the Designated Premises Supervisor (DPS), the personal licence holder who authorised the sale and the owner of the business may be held liable for this offence and receive an unlimited fine. In addition, if a personal licence holder is convicted of selling alcohol to a person underage, the courts may order the personal licence to be forfeited or suspended. A review of the premises licence may also be held and this could result in additional conditions or restrictions being put on the licence or the licence might be suspended or revoked.

If two underage sales of alcohol are made from the same premises within a period of three months the Premises Licence Holder also commit the offence of persistent sales of alcohol to under children. The penalty for this offence on conviction is an unlimited fine. Premises guilty of persistently selling alcohol to children may be given the option of accepting a closure notice which prohibits the sale of alcohol from the premises for between 48 hours and 14 days instead of facing prosecution for the offence.

Tobacco Products

It is an offence to sell cigarettes, tobacco products or cigarette papers to anyone under 18, even if they look older. This applies whether or not the cigarettes are for the young person's own use. It is also an offence to sell cigarettes unless they are in quantities of 10 or more and in their original packaging. This means that packets of cigarettes cannot be split to sell lesser quantities. From 20th May 2017 the minimum pack size for cigarettes will increase to 20 and a minimum pack size of 30 grams will come into force for hand rolling tobacco.

The following warning notice must be exhibited in a prominent position, which is clearly visible to anyone purchasing cigarettes, at every retail premise at which tobacco is sold. It must not be less than 297mm x 420mm (**A3**), with no character being less than 36mm in height.



You are liable to a fine of up to £1,000 for failure to display a sign.

If a person is convicted of making an illegal sale of tobacco products to anyone under the age of 18 years and, **on at least two other occasions** within a **2 year period**, has committed other similar offences (these do not need to have resulted in a conviction) a sanction may be applied for. A Local Authority may apply to a Magistrates Court for a **Restricted Premises Order** or a **Restricted Sale Order** or both.

A **restricted premises order** means that the retail business at the location where the offences took place is prohibited from selling tobacco products for a period of up to 12 months – to be determined by the court. This means that **NO** sales of tobacco or tobacco papers may take place from that business premises. This does not affect other businesses within the same group or chain. For example where a National Company is the subject of a restrictive premises order, the order will only apply to the specific location where the illegal sales have taken place.

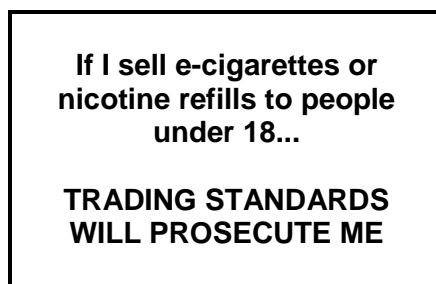
A **restricted sale order** means that a **named person** within a business is prohibited from selling tobacco or from having any management role in any premises relating to tobacco sales within a business for a period of up to 12 months – to be determined by the court. This means that the business premises may still sell tobacco products but that the **named individual** may not. The order will apply to the named individual regardless of where they are employed.

Nicotine Inhaling Products (including e-cigarettes)

A person who sells a nicotine inhaling product to someone under the age of 18 commits an offence. This is a strict liability offence; the owner of the business can be held responsible as well as the member of staff who made the sale.

There is an exception for nicotine inhaling products that are licensed as medicines or medical devices. This exemption only applies to the extent to which the product is authorised.

If you sell e-cigarettes and associated devices you might want to display a poster advising customers that you will not sell to under 18s:



Note: unlike the tobacco poster, this is **NOT** a legal requirement and is simply suggested wording.

Additional guidance for pharmacies (and other retailers that have not traditionally sold age-restricted products) has been produced by the Department of Health, the Medicines Healthcare products Agency and the Chartered Trading Standards Institute and can be found at <https://www.businesscompanion.info/sites/default/files/2015%20nicotine%20inhaling%20products%20guidance%20pharmacies.pdf>

Cigarette Vending Machines

It is illegal to sell cigarettes from vending machines to anyone, regardless of their age. To comply with the law you must ensure that any vending machine on your premises cannot be used by the public to buy cigarettes or any other tobacco product. Also, all tobacco adverts on the machine must be removed or securely covered up so that they are not visible.

If a Trading Standards Officer finds that cigarettes are being sold to the public directly from a vending machine on premises you own or manage, you could be fined up to £2,500. If any vending machine still displays tobacco advertising you could face an unlimited fine, or be imprisoned for up to two years, or both.

Display and Pricing of Tobacco Products

It is illegal to display tobacco products in the relevant shops and businesses in England, except to people over the age of 18 years in the limited circumstances set out in the law. This includes cigarettes, cigars, hand rolling tobacco and tobacco blunts. Where appropriate, age checks must be carried out before any tobacco product is shown to a customer who asks to buy tobacco or asks for information about a tobacco product.

It is also illegal to display the prices of tobacco products in the relevant shops and businesses in England, except in the formats set out in the law.

More detailed information about the tobacco display ban is available in the separate leaflet "Tobacco and nicotine inhaling products" available on our website.

Cigarette Lighter Refills

It is an offence under the Cigarette Lighter Refill (Safety) Regulations 1990 to supply cigarette lighter refills containing butane to anyone under the age of 18.

Lottery Tickets and Instant Win Cards (Scratch Cards)

It is an offence to sell National Lottery tickets and Instant Win cards (scratch cards) to any person under 16. The Regulations also require anyone selling such products to be over 16.

Camelot has the right to suspend or terminate their agreement with you if any under age sales occur (regardless of whether or not a prosecution takes place).

Fireworks

The Pyrotechnic Articles (Safety) Regulations 2015 prohibit the supply of adult fireworks (category F2 and F3) to anyone under the age of 18. Check the product labelling for the age restrictions.

Offensive Weapons/Knives

It is an offence for a person to sell the following to a person under the age of 18 -

- Any knife, knife blade or razor blade
- Any axe
- Any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person

Whether a particular article is a knife is a question of fact, but using a wider definition this legislation prohibits such sales of e.g. sheath knives; kitchen knives; craft knives and carpet knives to persons under the age of 18.

This legislation does not apply to folding pocketknives if the cutting edge of the blade is less than 3 inches or 7.62cm. Nor does it apply to replacement cartridges for safety razors, where less than 2mm of the blade is exposed.

Combat Knives

Further restrictions are included in the Knives Act 1997. This legislation prohibits the marketing of a knife or the publication of marketing relating to a knife, in a way which:

Indicates or suggests that it is suitable for combat or is likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.

The term 'suitable for combat' means that the knife is suitable for use as a weapon for inflicting injury or causing fear of injury to the person.

There are exemptions to allow sales of such items for legitimate purposes, such as use by armed forces or as collectors' pieces. These laws are enforced jointly by the Police and Trading Standards,

Films, Videos and Computer Games

It is an offence to supply or offer to supply a video recording to any person who has not attained the age specified on the recording. This legislation applies to video films, video games and computer games.

It is a defence to show that you neither knew nor had reasonable grounds to believe that:

- The classification certificate contained the statement in relation to the specified age or
- The person concerned had not attained the specified age or
- That you had reasonable grounds to believe that the supply was or would have been an exempted supply, as defined by legislation. If you sell video films by retail you will not be dealing with exempted supplies.

Petrol

Surrey County Council Petroleum Licensing Conditions make it a condition that anyone in charge of a petrol station must be at least 18, and anyone dispensing petrol or operating a petrol dispensing system must be at least 16.

Preventing Underage Sales

‘Due Diligence’

For most offences that relate to age restricted sales it is not only the person who physically made the sale that can be held responsible. The owner of the business, and in the case of alcohol, the premise licence holder, DPS and personal licence holder who authorised the sale, can also be prosecuted. If you have done everything reasonably possible to prevent the sale from occurring you should have a legal defence known as 'due diligence'.

Following the advice in this pack will reduce the chance of an illegal sale taking place and will help you to show that you exercise due diligence in the event that an illegal sale does take place. Even where no defences are available, it is recommended that the following guidelines be followed as best practice.

Samples of a Refusals Log and Training Record are on pages 12 and 13 of this guidance. Further copies can be printed or photocopied.

You should:

- **Train** all staff who will be involved in the sale of age restricted products on the legal restrictions, how to recognise and check acceptable forms of ID and how to refuse a sale. This training should be repeated at regular intervals and the dates, times and details of the training provided should be recorded. Staff should sign to confirm that they have received and understood the training provided.
- Adopt a **‘Challenge 25’** and **‘No ID, No Sale’** policy. This means that if a person looks under the age of 25 they will be asked to produce identification proving that they are over the legal age for the product being purchased. If they are unable to produce suitable identification then the sale is refused. This policy is important because many young people can look older than their true age, making it very difficult to accurately guess how old they are. In addition some people are better at guessing ages than others. The use of a Challenge 25 and No ID, No Sale policy means it is much less likely that age restricted products will be sold to those under age, either by staff who are not very good at guessing ages or to those under age who look older.
- Keep and maintain a **refusals log** where staff can record the occasions on which they have refused to sell age restricted products. This log should include the date and time of the refusal along with details of the product, attempted purchaser, the reason for refusal and the name of the member of staff who refused the sale. This log should be checked and signed regularly by the owner or manager to make sure that all staff complete it.
- Use reminders around the store including stickers and notices to reinforce your policies. This guidance comes with **posters** for display around the store including one highlighting the difficulties in identifying a young person’s age for display where your staff will see it.
- Use **till prompts**, through your EPOS system where available or through signage on or around your till, to remind staff of the need to check proof of age. A sign near the till can also be used to help your staff work out if the date of birth on someone’s ID makes them old enough to buy an age restricted product.
- Train staff on how to deal with aggressive customers and only employ staff who have the self confidence and ability to refuse a sale when necessary.
- Although the law does not always specify a minimum age for being able to sell certain goods, keep in mind that the age of the member of staff may be considered in any claims of due diligence.

A good way to show that your staff have received appropriate training in prevention of underage sales is to have them complete a recognised training course. An online training module called 'Prevention of Underage Sales,' which is accredited by the Chartered Trading Standards Institute, is available on our website for a small charge. It can be found at <http://skillsforwork.bucksandsurreytradingstandards.gov.uk/>

Test Purchasing

In order to check compliance with the law on age restricted products Trading Standards carries out test purchases of age restricted products as part of their enforcement duties. Test purchase exercises with regard to alcohol are carried out in partnership with the Police.

Test purchases are carried out in accordance with the government's Code of Practice on Age Restricted Products.

Remote (Internet and Mail Order) Sales

You have a responsibility to make sure you do not sell age restricted products remotely (online, by mail order or any other means where the sale does not take place face to face) to persons under certain ages.

Specific and positive age verification checks for preventing underage sales remotely include:

- **Accepting payment by credit card only.** As credit cards are generally only available to those over the age of 18, requiring payment by credit card can serve to verify that the principal cardholder is over 18. If you choose to use this method you should check with your payment processing provider to ensure their system does not accept cards that are available to those under 18.
- **On delivery.** If deliveries are made by your staff you can train them to check proof of age at the time of delivery, or you can use a courier that is able to do this on your behalf.
- **Online checks.** Age verification systems are available which draw on several sources of information including the electoral register and/or credit reference agencies to check the age of purchasers. You can also arrange access to the electoral register which can be used to verify a purchaser's age.
- **Collection.** If you have shops or other premises you may allow customers to view and reserve items online, but require them to collect any age restricted products, where checks on proof of age can be carried out by your staff in the same way as for a face-to-face transaction.

These are examples and it is up to you to have the most effective steps for your business.

The following steps, without the type of ones listed above, are likely to be insufficient so you **should not**

- Rely on the purchaser to confirm that they are over the minimum age by ticking a box, or accepting terms, conditions or disclaimers which include a requirement to be over the minimum age.
- Require the purchaser to provide a date of birth.
- Accept payment through e-payment services such as Paypal, Nochex or Worldpay as these services may not verify ages.

Proxy Sales

A proxy sale is when an adult buys alcohol or another age restricted product on behalf of someone who is under age. In the case of alcohol, this is an offence and can be punished by an unlimited fine and for tobacco and nicotine inhaling products it can be punished by a fine of up to £2500

While it is the adult who buys the product on behalf of the child who commits the offence, the retailer has a duty under the Licensing Act 2003 to uphold the licensing objectives including 'the protection of children from harm'.

Knowingly allowing proxy sales, or failing to take appropriate steps to prevent such sales from taking place, may constitute a failure to uphold the licensing objectives and could be used as evidence to support a review of the premises licence.

Prevention

In order to prevent proxy sales Trading Standards recommends that you train your staff to recognise proxy sales and to refuse the sale where it is suspected that an adult is buying an age restricted product on behalf of a child.

Some signs of proxy sales to be aware of are:

- Groups of young people selecting products but only one approaching the check-out to pay.
- Young people loitering outside the shop and approaching customers asking them to buy on their behalf.
- People buying a variety of brands of a product and/or paying with change may indicate they are buying for more than one person.

Where more than one person approaches a check-out and one is purchasing an age restricted product, you should seek proof of age for all of them unless you are satisfied that the age restricted product is for the adult only (for example a bottle of wine bought amongst the weekly shop by a parent accompanied by their child).

How to Check Proof of Age

If a person who appears to be under 25 attempts to purchase an age restricted product, you should ask them to provide identification to prove they are old enough to buy the product. You should NOT simply assume that if someone has shown you identification that they are old enough **but** should check the identification carefully. There are a number of things to look at and consider when checking the identification that is produced, including:

1. Is the identification provided acceptable proof of age?

To be **acceptable** proof of age the identification must include a photograph, date of birth and a holographic mark. Examples of acceptable identification are photocard Driving Licences, Passports and cards bearing the Proof of Age Standards Scheme (PASS) hologram:



Other forms of identification such as birth certificates, student cards and novelty cards such as 'European Driving Permits' are **not acceptable** proof of age:



2. Is the identification genuine?

You should check that the identification provided is genuine and not a counterfeit or fake version of a legitimate form of identification. When looking at the identification you should consider whether it is of the quality you would expect, including the material it is made of and the quality of any printing on it. Many forms of legitimate identification have security features built in to them, including holographic marks, tactile features (raised areas that you can feel when you run your finger over them) and images that change when you tilt the card, which can help you to check that a card is genuine. In the case of Proof of Age Standards Scheme Cards you will be able to see an image if you look at the card under a UV light. Full details of the security features on each type of identification are usually available from the issuing body. If you are in any doubt about if the identification provided is genuine or not you should seek further identification or refuse the sale.

3. Does the photo match the person who presented the identification?

You should look closely at the photo and check that it matches the person who has presented it to you. Ask them to remove hats, scarves or glasses if necessary. If you are unsure if the person presenting the identification is the person in the photo you can and should refuse the sale.

4. Does the date of birth on the card make the person over the legal age for the product they are attempting to purchase?

Check that the date on the card would make the person over the required age. Remember that 17 year olds may have a driving licence so you must check the date of birth if someone presents a driving licence to you. Many premises use electronic till prompts or signage near the tills displaying the date someone must be born on or before in order to make them over 18.

5. Has the identification been tampered with in any way?

You should hold the identification so that you can look at it closely and check for any sign of tampering such as the photo having been replaced or the date of birth being altered. This is sometimes done by placing a clear laminate with a new photo or date of birth over top of the correct one. If you run your fingers over the surface of the card and feel the edges you should be able to detect any tampering. If a person is reluctant to let you hold the identification this may be

a sign that it has been tampered with and they don't want you to look closely at it. If identification has been tampered with or you have not been able to look at it closely enough to detect any tampering then you can and should refuse the sale.

The government has produced guidance on dealing with issues around the use of False ID. Though this is aimed at licensed premises selling alcohol, information about the types of identification that are or are not acceptable will be relevant to all age restricted products. The guidance can be found at <https://www.gov.uk/government/publications/false-id-guidance>.

How to refuse a sale

Ask for proof of age. This helps the situation as it is not a direct refusal. It says that you will make the sale if they can produce valid proof of age. Only accept proof of age that you have checked as described in the section above.

If someone cannot produce proof of age then refuse politely but firmly. If necessary repeat your refusal clearly.

Keep calm. Do not get into an argument.

Explain briefly why you cannot sell. Try saying:

- 'I'm sorry, if I serve you I might be breaking the law.'
- 'We have a policy of 'no proof of age, no sale.'
- 'Our company policy is not to sell these products to young people if they do not have ID.'

Show customers notices, posters and stickers displayed around the premises that indicate you will not sell age restricted products to people who appear under 25 without proof of age.

Offer an application form for an approved proof of age card scheme and tell the customer that if they come back with identification showing they are old enough you will be happy to serve them.

Be positive in your refusal. Have a firm tone of voice, be confident and use direct eye contact. Do not waver from your decision not to sell. If you look unsure a customer may think you are likely to change your mind and continue to argue.

Remember that the law is on your side and you are doing the right thing.

Call your supervisor or manager for support if necessary.

Dial 999 for police assistance if the situation becomes an emergency, for example in the case of an assault or threats.

Call the police on 101, the non-emergency number, to report low level incidents such as nuisance youths at the premises or situations where you have felt intimidated.

Record details of the attempted purchase in your Refusals Log.

Useful links

- www.wtsa.co.uk The Wine and Spirits Trade Association website includes free downloads of Challenge 25 posters which you can print yourself and a guide to Challenge 25.
- www.noidnosale.com Offers free resources to retailers, including posters, refusals registers Citizencard application packs.
- www.bii.org The BII is the professional body for the licensed retail sector. Their website includes details of a number of accredited training courses for staff and management in licensed trade, as well as details of local course providers.
- www.bucksandsurreytradingstandards.gov.uk Search for 'age restricted products'
- www.ash.org.uk Information about tobacco and tobacco control.
- www.acs.org.uk The Association of Convenience Stores (ACS) provides information and advice in relation to all aspects of convenience retailing. As part of a Primary Authority Partnership with Buckinghamshire & Surrey Trading Standards they have produced advice guides on a number of topics, including preventing underage sales, selling fireworks and the tobacco display ban. The guides are all freely available to download from the ACS website.

This factsheet is designed to give you general advice. It is not a statement of law and should not be interpreted as such.

Trading Standards offer a range of advice services to businesses in Buckinghamshire and Surrey.

We will signpost you to other sources of information or by registering with us we can then provide you with expert advice when you need it.

Registering entitles Buckinghamshire and Surrey businesses to a half hour of free advice within six months; additional support is subject to charge. This can include training tailored and provided to meet your business' needs.

For further details and the registration form please visit our website, email or call us.

Business Advice Line (01372) 371737
Fax (01372) 371704
TYPETALK calls welcome
E-mail business.advice@bucksandsurreytradingstandards.gov.uk
Web
www.bucksandsurreytradingstandards.gov.uk

This information may be made available in an alternative language, large print, Braille, or an audio tape and computer disk

Trading Standards:

County Hall
Aylesbury
Buckinghamshire
HP20 1UP

Consort House
5-7 Queensway
Redhill
Surrey, RH1 1YB
RH1 1YB

REFUSAL LOG

Date	Time	Product	Reason for Refusal	Description of Person	Member of Staff	Member of Staff's Signature

Owner/Manager's Signature: _____ Date: _____

Age Verification Policy

This policy applies in relation to the sale or supply of alcohol on the following Premises

Name of premises:

.....

Address of premises:

.....
.....
.....

Name of premises licence holder:

Name of designated premises supervisor:

1. The premises licence holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark. This can include, for example:

- A photo card driving licence
- A passport
- A proof of age card bearing the PASS hologram

2. Responsible Persons

For the purposes of this policy the following are considered to be responsible persons:

- the holder of the premises licence;
- the designated premises supervisor;
- a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18; or
- a member or officer of a club present on the club premises in a capacity which enables him or her to prevent the supply in question.

3. Individuals who appear to the responsible person to be under the age of 25 will be asked to produce identification bearing their photograph, date of birth and a holographic mark, before being served alcohol. The sale of alcohol to any individual who appears under the age of 25 and who cannot provide suitable identification proving that they are over the age of 18, will be refused.

ANNEX A: Further guidance

- By selling alcohol to a person who is under 18 it is **YOU** that commits the offence as well as the customer.

Persistently selling alcohol to children

- Persistently selling alcohol to children is defined as selling alcohol on the same premises to a person who is under 18 on two or more occasions within a single three month period. Currently there are three avenues by which action can be taken against those found to be persistently selling alcohol to children.
1. The licence holder, if prosecuted and found guilty, can be given an unlimited fine and/or up to 3 months suspension of the alcohol licence.
 2. As an alternative to prosecution, the police or trading standards officers can give the licence holder the option to voluntarily accept a closure notice for a period of between 48 hours and 336 hours (14 days) rather than face criminal liability.
 3. The police or Trading Standards can make a representation to the relevant licensing authority to ask them to review the licence. This can also happen in addition to options 1 and 2.

The premises licence holder must ensure that staff (in particular staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy applied by the premises.

Signed.....
PREMISES LICENCE HOLDER

Date.....