Trading Standards Service

Guidance for the trade on how to avoid selling age restricted products to those under age
Age Restricted Products

Legislation prohibits the supply (sale or hire) of specific products to persons under certain ages. Tobacco products, fireworks, solvents, lighter refills containing butane, and alcohol are not to be sold to anyone under the age of 18 years. Caps, party poppers (and similar products), lottery tickets and aerosol spray paints are not to be sold to anyone under the age of 16 years.

There are different age restrictions on videos and video games, 12 and over, 15 and over and 18 and over. The different pieces of legislation also give requirements for certain warnings and notices to be displayed when selling particular products. Some of the legislation has defences available, namely that the accused took all reasonable precautions, and exercised all due diligence, to avoid committing an offence.

Traders should always ask young people to produce proof of their age. Trading Standards Departments and the government support the national Proof of Age Standards (PASS) scheme. A card issued under this scheme and bearing the PASS hologram is an acceptable proof of age. Any refusals of restricted products to underage children should be recorded on a refusal sales sheet or a refusal book.

Some products are considered to present real risks to the health and welfare of children and teenagers. The law makes it illegal to sell these goods below the specified age limits.

The following pages briefly describe some of the products covered by age restrictions, the reasons why certain restrictions exist and how illegal sales can be avoided.
### Which products are age restricted?

<table>
<thead>
<tr>
<th>Age</th>
<th>Product</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>Aerosol paint containers</td>
</tr>
<tr>
<td>16</td>
<td>Liqueur Chocolates</td>
</tr>
<tr>
<td>16</td>
<td>Lottery Tickets and Scratch Cards</td>
</tr>
<tr>
<td>18</td>
<td>Alcohol</td>
</tr>
<tr>
<td>18</td>
<td>Cigarettes and Tobacco</td>
</tr>
<tr>
<td>18</td>
<td>Intoxicating Substances (Solvents)</td>
</tr>
<tr>
<td>18</td>
<td>Fireworks (Excluding Party Poppers)</td>
</tr>
<tr>
<td>12, 15 or 18</td>
<td>Video Recordings</td>
</tr>
</tbody>
</table>

### Why these products are age restricted and why these restrictions matter

**Tobacco**

- 87,000 people a year die from tobacco related illness and disease; 82% of smokers take up the habit as teenagers.
- Smoking related conditions and diseases cost the NHS an estimated £1.5 billion a year.
- In England it is estimated that 87% of deaths from lung cancer are attributable to smoking, as are 73% of deaths from upper respiratory cancer and 86% of chronic obstructive lung disease.
- 9% of 11-15 year olds smoke regularly.
- 20% of 16-19 year olds smoke.
- 31% of young people aged 20-24 smoke, which is the highest smoking rate of any age group.

**Solvents**

- 1,700 people have died from ‘solvent’ abuse. 53% of deaths were between the ages of 14 and 18.
Alcohol
• Almost 90% of 15 year olds have tried alcohol, whilst a third drink once a week or more
• Young people aged 16-24 are more likely than other age groups to consume more than twice the Department of Health’s recommended sensible limits.
• In 2007, a Newcastle survey identified that:
  > Young males under the age of 16: 43% drank two or three times a week and 21% drank every day
  > Young males between 16-18 years old: 11% drank every day and 11% drank two or three times a week
  > Young females under the age of 16: 10% drank every day and 27% drank every weekend
  > Young females over the age of 16: 6% drank every day, 26% drank two or three times a week and the majority drank at weekends.

Gambling
• Studies of problem gambling amongst children and young persons have found evidence that young people who gamble in childhood are more likely to gamble in adulthood.
• 47% had gambled on National Lottery scratch cards and 40% had gambled on the National Lottery draw.

Fireworks
• In 2005, 990 recorded injuries involved fireworks.
• Children and teenagers who use and abuse such products, therefore, risk the following:
  > Long-term health problems, serious injury or even death resulting from tobacco, solvent abuse and fireworks
  > Being drawn into criminal or anti-social behaviour resulting from alcohol, solvent abuse and gambling
  > Educational under-achievement resulting from alcohol and solvent abuse.
How these problems can be avoided

By children:
• Children can help protect themselves by obeying the law and not trying to buy goods if they are under-age

By parents, teachers and other adults:
• Many, if not most, under-age buyers get their products from shops
• Trading Standards Officers need to know which shops are making, or are suspected of making, illegal sales so that steps can be taken through advice, warnings or prosecution to prevent such sales.
• It is vital that such knowledge or suspicions are reported to Trading Standards Departments even if this is done anonymously.
• Parents, teachers and adults in general can play a crucial role in this respect.
• Remember: a trader can be prosecuted and may even lose their livelihood for making an illegal sale.

Guidance for Retailers

Trading Standards Officers understand and appreciate that it can be very difficult at times to judge the age of a young person. We also realise that the vast majority of retailers take their legal responsibilities in this important area of law very seriously indeed.

Unfortunately the few retailers who fail to comply often receive bad publicity which quite understandably affects their trade and the whole licensed trade in the city.

The following guidance should provide you with the information to assist you and your employees in preventing the sale of the range of age restricted products to young people.

There is information for each of the following products:

• Alcohol
• Tobacco
• Fireworks
• Solvents (glue, lighter fuel, etc.)
• Aerosol Sprays
• Videos and DVD’s
Requirements for Best Practice

We believe that putting all of the following measures in place will help you demonstrate you are taking “all reasonable precautions and exercising all due diligence”. This is the criteria that Trading Standards needs to look at before placing a summons for the illegal sale of an age restricted product before a Court of law. Clearly what is “reasonable” for a small business will be entirely different for a large national retailer.

• All staff must understand the law around all the age restricted products sold in your shop. They will need training to help them to achieve this and the training must be carried out on a regular basis. New staff must be trained before being involved in the sale of any age restricted products. Keep a written record of any training or updates.

• Keep a refusal register. This record details of any sales that are refused and the name(s) of the staff so involved. This shows diligence. Its use can also act as a deterrent to young people attempting to buy.

• Implement a policy of not selling to anyone wearing a school uniform.

• Do not sell to anyone you suspect of being involved in so called Proxy Sales in that they are buying on behalf of underage persons. You are perfectly within your rights to refuse such a sale although the customer is over the legal limit to buy the product.

• Ensure senior colleagues give support and back up staff that makes a decision to refuse a sale of an age restricted product.

• A policy of “No Proof of Age - No Sale” is sensible. Encourage staff to ask for proof of age for all customers who appear to be under the age of 21, the Challenge 21 scheme.

• Use till prompts at the point of sale. This can be a scanned barcode message, stickers or posters.

• Trading Standards Departments and the Government support the
national Proof of Age Standards (PASS) scheme. A card issued under this scheme and bearing the PASS hologram is an acceptable proof of age.

- The Owner/managers/ Area Managers/Designated Premises Supervisors must make regular checks in the premises to ensure that the statutory signs are displayed, the training records and refusals logs are maintained and support staff that refuse sales. You may decide to keep records of these checks.

## Proof of Age

- One of the easiest ways to satisfy you a customer can buy an age restricted product is to ask for some proof of age.
- If young people can buy a particular age restricted product legally it will be in their own interest to carry a proof of age card.
- The more youngsters are asked for acceptable Proof of Age cards the more inclined they will be to carry one.
- Trading Standards Departments and the Government support the national Proof of Age Standards (PASS) scheme. A card issued under this scheme and bearing the PASS hologram is an acceptable proof of age.
- There are many fake Proof of Age cards about, many available from the internet, so if you are unhappy with any card presented to you for any reason, simply refuse sale.
- If someone presents a passport to you as proof of age check carefully the date of birth on the passport, the photograph and whether or not it is still valid.
- Items such as birth certificates and National Insurance cards are not acceptable to be taken as proof of age.
- You legally have the right to refuse any customer either over or under age if you are not happy with the sale in anyway.

**Please remember: Better safe than sorry - if you make the sale then you are responsible.**
What is Pass?

The Proof of Age Standards Scheme (PASS) is the national proof-of-age accreditation scheme, endorsed by Government, which sets minimum standards for proof-of-age cards.

The Government has endorsed the scheme as it: “believes that the scheme will help sellers of age restricted products to comply with the law and helps to protect young people from the risks posed by the purchase of age restricted goods to which they are not entitled”.

The aim of PASS is to provide:

• Reliability
• Assurance
• Confidence

for retailers, enforcers and young people.

The PASS hologram on a card is the hallmark indicating that the card issuer has passed a stringent audit carried out by Trading Standards Officers and that the card may be relied upon. The hologram is forge-proof and recognisable and the scheme is supported by the Home Office, the Association of Chief Police Officers and the Trading Standards Institute.

Around 1.5 million young people hold proof-of-age cards bearing the PASS hologram and numbers are increasing all the time.

For more information please visit the PASS website at www.brc.org.uk/pass

How to Refuse a Sale

We quite clearly recognise that when you refuse the sale of an age restricted product the customer may well get angry. To assist you and your staff handle these difficult situations Trading Standards in Newcastle will in 2010/2011 be organising some training to assist anyone who deals with such situations on a daily basis.
In the meantime to help you deal with such difficult situations we would recommend the following:

- Ask for Proof of Age. This should diffuse the situation as it is not a direct refusal. It tends to put the onus on the customer to produce some form of proof of their age. Only accept Proof of Age with a photo. A card issued under the PASS scheme and bearing the hologram is an acceptable proof of age.
- Refuse politely. If necessary repeat your refusal clearly.
- Keep calm; try not to get into an argument.
- Explain briefly why you are refusing to sell the age restricted product. Try:
  - “Our policy is not to sell these products to young people”
  - “I’m sorry but if I sold you this I could be breaking the law”
  - “We have a policy of “No proof of Age, No Sale”.
- Draw their attention to posters and stickers, which indicate you will not sell the particular age restricted product or substance.
- Be positive in your refusal. Have a firm tone in your voice, be confident and use direct eye contact. The law is on your side and you are doing the correct thing by refusing the sale.
- Call your supervisor or other colleague for support if necessary.
- Once the person who has been refused the sale leaves enter details in the Refusal Register.

Test Purchasing

Trading Standards Officers of the City Council are empowered to ensure that the legislation around a range of age restricted products is closely followed. To ensure compliance Trading Standards Officers with the assistance of child volunteers carry out test purchases on age restricted products.

Any test purchases using these child volunteers that could result in prosecution of individuals will be carried out in strict accordance with the guidelines as issued by Local Government Regulation. Test purchase exercises are not deemed as entrapment.
Illegal Sales of Alcohol

- It is illegal (in general) under the Licensing Act 2003 to sell alcohol to anyone under 18 or purchase alcohol if you are under 18. Licensees, sales assistants and buyers could all be prosecuted.
- If you are not sure of the customer’s age and they appear to be under 21, in line with the Challenge 21 policy ask for proof of age. **If you are not sure then refuse the sale.** If you sell alcohol to a person under 18 you can be fined £5000.
- It is illegal to sell chocolate liqueurs to anyone under 16.
- Alcohol cannot be consumed on a Premises licensed only for off-sales.
- Alcohol cannot be consumed in the street where a Designated Public Places Order (DPPO) is in place. Any person in such an area found drinking alcohol shall upon the instruction of a Police Constable or Police Community Support Officer, surrender the alcohol for disposal. For a full list of DPPO’s please visit www.newcastle.gov.uk
- A member of staff under the age of 18 years cannot sell alcohol unless they are supervised by an employee over the age of 18 years.
- Alcohol can only be sold during the licensable hours as permitted on the premises by the relevant Premises Licence.
- Alcohol can only be sold on the premises, in line with the Conditions as applicable on the relevant Premises Licence.
- Alcohol should not be sold to a person that is drunk.
- If you reasonably suspect that alcohol is being brought by a person over the age of 18 for the benefit of someone under 18, a so called ‘Proxy Sale’, you are entitled to refuse the sale.
- Ensure that you have adequate signage in your premises to ensure that people are well aware you will not sell to people under 18. i.e. “Challenge 21 posters”.
- Ensure in line with the new Mandatory Condition under the
Licensing Act 2003, you have an Age Verification Policy in full operation on your premises.

- Please remember that breaches of the Licensing Act 2003 could lead to a prosecution with the potential for a personal licence to be revoked by the Magistrates Court and/or for a premises licence to be revoked by the Licensing Authority/Courts.

Illegal Sales of Tobacco

- It is illegal to sell cigarettes or any other tobacco product to any person under 18 years of age.
- If you are not sure that about the customer’s age and they appear to be under 21, ask for proof of age.
  **If you are not sure then refuse the sale.**
- If you break the law and sell tobacco products to a person under 18 years of age you can be fined £2500.
- It is illegal to break open a pack and sell cigarettes singly to anyone-child or adult. If you sell unpackaged cigarettes you can be fined £1000.
- Make sure your statutory warning notice is displayed and can be clearly seen at all times. This should be A3 size and state – “It is illegal to sell tobacco products to anyone under the age of 18”
- If you do not display the notice so it can easily be seen you can be fined £1000.
- Tobacco products include: - Cigarettes, Rolling Tobacco, Cigarillos, Cigars, Filter Tips, Pipe Tobacco, Cigarette Papers.
- If a child says they are for someone else that makes no difference, even if is true. The law forbids all sales to children.
- Matches and cigarette lighters are not covered by this legislation but we recommend having a shop policy of not selling the product to under 18’s (Cigarette lighters containing gases should also be considered under ‘solvent sales’).
Trading Standards Officers are responsible for enforcing the law on illegal sales of alcohol and cigarettes including the display of warning statements. If you require further advice please contact Newcastle City Council Trading Standards Service on 0191 211 6121.

Illegal Sales of Fireworks

Ensure your products are safe

Fireworks - information for suppliers, retailers and display event organisers

• Fireworks are available throughout the year from shops licensed to supply them. They become widely available at certain times of the year, mainly a few days before New Year's Eve, Diwali and Chinese New Year, and in the weeks leading up to Bonfire Night on 5 November.

• All fireworks that are to be sold to the public must comply with British Standard BSEN15947.

• Category 3 fireworks must not exceed 120 decibels. Category 4 display fireworks are not intended for supply and must be marked accordingly.

• If you want to sell fireworks, you need to obtain a licence from the Tyne and Wear Fire and Rescue Service. Contact them on 0191 444 1500 or go to www.twfire.gov.uk. The penalties for not registering or being licensed are a fine of up to £5,000, a prison sentence of up to 6 months, or both.

• It is illegal to supply fireworks to a person under the age of 18 (except the following: - crackers, caps, party poppers, serpents and novelty matches and throw-downs for which the age limit is 16)

• If you are not sure of the customer’s age and they appear to be under 21 in line with the Challenge 21 policy, ask for proof. If you are still not sure then refuse the sale. If you break the law and sell to a person under 18, you can be fined £5000 and/or six months imprisonment.

• The same penalties apply for breaking down boxes of fireworks to sell singly.
• Display the statutory notice: “It is illegal…..
  1. To sell adult fireworks or sparklers to anyone under 18
  2. For anyone under 18 to possess adult fireworks in a public place”.

Display safety leaflets featuring the Firework Code. These should be available from your supplier, Trading Standards and at www.businesslink.gov.uk

Trading Standards Officers are responsible for enforcing the law on illegal sales of fireworks. If you require further advice please contact Newcastle City Council Trading Standards Service on 0191 211 6121.

Illegal Sales of Solvents

• It is illegal to supply any product containing solvents “likely to be inhaled for the purposes of intoxication,” to any person under 18.
• The biggest killers are gas cigarette lighter refills. It is illegal to sell them to anyone under the age of 18. These products are very dangerous as they can kill instantly.
• If you are not sure of the customer’s age and they appear to be under 21, in line with the Challenge 21 policy, ask for proof of age. If you are not sure then refuse the sale
• If you break the law and sell to anyone under 18, you can be fined £5000 and/or serve six months imprisonment.
• The same penalties apply if you supply solvents to any person acting on behalf of someone under 18 years of age.
• The most common products which are misused are butane gases, lighter fuel, solvent based glues, aerosols, correction fluids and some polishes.
• It is advisable to store these products behind your counter, where customers do not have access.
• Be very aware of young people in your premises:-
  > Who buy solvent products frequently
  > Try to make multiple purchases
  > Act suspiciously, giggling or not buying other products.
Illegal Sales of Aerosol Spray Paints

- The Anti-Social Behaviour Act 2003 makes it a criminal offence to sell an aerosol paint container, i.e. spray paint stored under pressure, to anyone under the age of 16. This is to try and reduce the incidence of graffiti.
- The owner of the business, as well as the actual seller, may be liable.
- If you are not sure of the customer’s age and they appear to be under 21, in line with the Challenge 21 policy, ask for proof of age. If you are not sure then refuse the sale.
- If you break the law and sell to anyone under 18, you can be fined £5000 and/or serve six months imprisonment.
- Trading Standards Officers are responsible for enforcing the law on illegal sales of solvents and aerosol spray paints. If you require further advice please contact Newcastle City Council Trading Standards Service on 0191 211 6121.

Illegal Sales of Videos and DVDs

- It is illegal to sell or supply a video or a DVD to a person below the age specified on the video classification. This includes the hiring out of videos and DVD's.
- If you are not sure of the customer’s age and they appear to be under 21, in line with the Challenge 21 policy, ask for proof of age. If you are not sure then refuse the sale.
- If you break the law and sell or hire a video or a DVD to a child below the classification age, you can be fined £5,000 and/or serve six months imprisonment.
- It is illegal to sell a video or DVD with NO age classification label unless exempt from this requirement i.e. a film featuring sports.
- It is illegal to sell a video or DVD packaged with an adult magazine or otherwise and which has been classified as a Restricted 18 film, unless you have the appropriate licence from the local authority.
• If you supply an unclassified video or DVD you may be liable for up to two years imprisonment or a fine of £20,000.

• The video classifications are:-
  > U – Suitable for all
  > PG – General viewing but some scenes may be unsuitable for young children.
  > 12 – Suitable for 12 years and over.
  > 15 – Suitable only for 15 years and over.
  > 18 – Suitable only for adults.

• Further details on Age Suitability Ratings or Film Classifications can be obtained from the British Board of Film Classification (BBFC) website at www.bbfc.co.uk

• Trading Standards Officers are responsible for enforcing the law on illegal sales and the illegal hire of videos and DVD’s. If you require further advice please contact Newcastle City Council Trading Standards Service on 0191 211 6121.
Please note:
This leaflet is not an authoritative interpretation of the law and is intended only for guidance.
For further information, please contact the City of Newcastle Trading Standards Service on 211 6121 or email tradingstandards@newcastle.gov.uk