



Solihull Metropolitan Borough Council
Licensing, Central Depot, Moat Lane, Solihull, B91 2LW
Telephone No. 0121 704 6830

**Application for the review of a premises licence or club premises certificate
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all
cases ensure that your answers are inside the boxes and written in black ink. Use
additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Richard Staveley

(Insert name of applicant)

**apply for the review of a premises licence under section 51 / ~~apply for the~~
~~review of a club premises certificate under section 87~~ of the Licensing Act 2003**
for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

| | |
|--|-------------------------------------|
| Postal address of premises or, if none, ordnance survey map reference or description Tandas Stores 71 Silver Birch Road Kingshurst | |
| Post town Solihull | Post code (if known) B37 6AS |

| |
|---|
| Name of premises licence holder or club holding club premises certificate (if known) Mrs Manvinder Kaur |
|---|

| |
|---|
| Number of premises licence or club premises certificate (if known) 005803 |
|---|

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

| |
|---------------------------|
| Name and address |
| Telephone number (if any) |
| E-mail address (optional) |

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

| |
|---|
| Name and address: Mr Richard Staveley Trading Standards & Environmental Compliance Safer Communities (Regulation & Enforcement) Economy & Infrastructure Directorate The Core, Homer Road, Solihull B91 3RG |
| Telephone number (if any) 0121 704 8124 |
| E-mail address (optional) rstaveley@solihull.gov.uk |

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes

- ✓
-
-
-
-

Please state the ground(s) for review (please read guidance note 2):

I am submitting this review on the grounds of actions or in actions which are contrary to the licensing objectives: the protection of children from harm and the prevention of crime and disorder.

S.146(1) Licensing Act 2003

Sales of alcohol to individuals under the age of 18

The Trading Standards Service of Solihull MBC enforces the law regarding the sale of alcohol to a person under 18. Periodically the Service carries out test purchasing exercises at premises that we have received intelligence about in relation to the sale of age restricted products to children.

In August 2022, Trading Standards received a complaint about Tandas; it was alleged that a 11-year-old child had been able to purchase a vaping product from the premises. Following this allegation an officer visited Tandas to discuss the sale of vaping products to children. This matter was investigated by Caroline Morris, Senior Trading Standards Officer and an extract from her statement is included as part of this application.

On 17th September 2022 officers from Trading Standards undertook a test purchase operation with the assistance of volunteers who were under the age of 18. On this date a person under the age of 18 was instructed to enter the premises and attempt to buy alcohol. The test purchaser was able to purchase a pack of 4 cans of cider. This purchase was covertly observed by James Shore, Trading Standards Officer.

Immediately after the sale was made, I, accompanied by James Shore, entered the premises and informed the seller that a sale had been made. As well as the seller there was one other member of staff present. I requested to see the "refusals book" or "refusals register" for the shop. The seller handed me a document which appeared to be a commercially available refusals register. On reading this record I found one entry from 2020. In addition, there was no signage relating to the sale of alcohol to under 18's or any age challenge signage e.g. Challenge 21 or Challenge 25.

This review is therefore being sought due to a sale of alcohol being made to an individual under 18. It is a criminal offence to sell alcohol to persons under 18 contrary to the Section 146(1) of the Licensing Act 2003. Therefore, there has been a breach of the licensing objective relating to the prevention of crime and disorder.

This sale was made to a person under 18 and therefore, by definition, to a child (Children Act 2004). Therefore, there has been a breach of the licensing objective of the protection of children from harm.

Investigations continue in relation to potential offences committed by the seller of the alcohol during the test purchase. However, due to the time this could take and the consequences of no change in the management of the premises, I feel the license review should take commence as soon as possible.

Please provide as much information as possible to support the application
(please read guidance note 3)

Extract from the statement of Caroline Morris, Senior Trading Standards Officer and Investigating Officer for the allegation relating to the sale of a nicotine vaping product to an 11 year old

I am employed by Solihull Metropolitan Borough Council as a Senior Trading Standards Officer. In August 2022, the trading standards department received a complaint about the business, Tandas Stores of 71 Silver Birch Road, Kingshurst, B37 6AS. It was alleged in the complaint that the store had sold a vape product to an 11 year old child. On the 17th August 2022, I visited Tandas Stores with Senior Trading Standards Officer, Garry Brown. At the premises I spoke to Avtar Singh who said he was a worker at the shop. I explained to Mr Singh that we were present to inspect the vape products he had for sale for compliance and to talk to him about the alleged complaint. Following the inspection I advised Mr Singh about the complaint and that it was a serious matter. I reminded him that the age restriction for Tobacco and Nicotine Inhaling Products was 18 and I handed him a letter advising him about the potential for test purchasing of vape products which also contained guidance from The Business Companion on the sale of such products.

The advice letter left at the premises is appended to this review application.

Extract from statement of Richard Staveley, Trading Standards & Environment Manager, in relation to test purchase on 17th September.

I am Richard Staveley and I am employed by Solihull Metropolitan Borough Council as the Trading Standards and Environment Manager. I am an Inspector of Weights and Measures for the purposes of the Weights & Measures Act 1985 and I am an authorised officer for the purposes of the Licensing Act 2003.

On Saturday 17th September 2022 I took part in a test purchase exercise in relation to age restricted products along with Trading Standards Officers Caroline Morris and James Shore. For this exercise we asked two 17 year old female volunteers to enter premises, as usual customers, and attempt to purchase age restricted products. Throughout the exercise the volunteers were identified as volunteer 1 and volunteer 2. At the start of the exercise I briefed the volunteers: they were instructed to tell the truth if they were asked how old they are and to say that they did not have any if they were asked if they had any identification.

At approximately 15:20 I asked the volunteers to attempt to purchase alcoholic drinks from Tandas, 71 Silver Birch Road, Birmingham, B37 6AS. I gave volunteer 1 a £10 note and, accompanied by volunteer 2, asked her to enter the shop and attempt to purchase an alcoholic drink. James Shore was also asked to enter the shop as an unrelated customer to observe the activity in the premises.

When she came out of the shop volunteer 1 handed me a pack of 4 x 440ml cans of Strongbow Dark Fruit cider and £4.25 in change.

Mr Shore and I re-entered the premises and there were two male members of staff in the shop. Mr Shore identified the member of staff who had made the sale to volunteer 1. I approached him, identified myself and explained what had happened. I asked if I could see the refusals register or book and Mr Singh handed me a document which appeared to be a commercially available refusals register. On reading this record I found one entry from 2020. I looked around the shop and could not see any signage relating to the sale of alcohol to those under the age of 18. I took

down the details of the licensee from the license.

Comment

The Licensing Act 2003

It is a mandatory requirement for licensees to implement an age verification policy for their premises.

While the product in question was not the same as with the test purchase the evidence provided by Mrs Morris shows that the matter of selling age restricted products to underage children was actively raised with the premises and a letter outlining their full responsibilities under the law provided. Further, it was approximately a month between Mrs Morris' visit making the premises aware of the allegation of an underage sale to the outcome of the test purchase. I would suggest that this would have been an appropriate time to ensure all staff are reminded of the law and the use of things such as the use of refusals books.

While this is an application for a review of the alcohol licence and not criminal proceedings I believe that reference to Section 146 (6) of the Licensing Act 2003 would assist in providing context around this matter. This section says 'Where a person is charged with an offence under this section by reason of the act or default of some other person, it is a defence that the accused exercised all due diligence to avoid committing it.'

In this case, as licensee, Mrs Kaur could be charged as a result of the actions of the employee and so would be able to avail herself of the defence of due diligence.

To 'exercise all due diligence' a person must ensure that there is a system in place and that that system is working. What constitutes due diligence will depend on the size of the business with bigger, national companies being required to implement more stringent standards than small independent businesses. However, this is likely to be dependent on the risk posed by the business: the higher the risk the more sophisticated the system.

On top of an age challenge policy, in the case of age restricted products the sorts of measures that would need to be put in place in order to satisfy this requirement are likely to be, at least; documented staff training, a refusals book or register and notices in the shop. In bigger or more high risk premises tills which prompt the shop worker to carry out an age check when an age restricted product is scanned, and will not complete the transaction until the action is completed, are appropriate.

Age Challenge Policy, Signage & Training Records

Immigration case law indicates that it is not reasonable to expect an individual to accurately assess the age of another person. Especially when trying to determine whether someone is a child (under 18 years) or an adult (18 years and over). This is recognised by introducing a policy such as Challenge 25. Anyone attempting to purchase alcohol, or other age restricted products, who looks under the age of 25 should be challenged to provide evidence of their ability to legally purchase the product.

Notices should be posted in the premises informing customers that a Challenge 25 policy is in force and they should expect to be challenged if they look younger than 25.

Training is intended to give employees information about the age restrictions, what to look out for, what "Challenge" policy is used in the premises and what to do if faced with a purchaser they believe to be underage. Training records signed by the staff members provides evidence that this training took place.

Refusals Register

A refusals book or register is a record of the incidents when customers have been refused a sale of an age restricted product because they did not appear old enough. On 17th September in Tandas there only evidence that one entry had been made in the refusal book and that was all the way back in 2020. There was no evidence that a "Challenge 21" or "Challenge 25" policy was in force. There were no signs indicating that they do not sell alcohol to people under the age of 18. This then calls into question not only the use of a refusals register but also the training they have received and indeed the existence of an age verification policy for the premises. Intelligence suggests that this premises has a reputation for selling age restricted products, such as alcohol, tobacco and vapes to people under 18.

Recommendations

To help prevent further breaches of the licensing objectives, I recommend that the following license conditions be added to the premises licence for Tandas:

The prevention of crime and disorder

- CCTV covering the interior and exterior of the premises will be installed and shall be kept operational at all times the premises are open to the public.
 - It shall be capable of taking a head and shoulders shot of persons entering the premises, of recording images to an evidential standard in any light and be capable of storing images for a minimum of 31 days.
 - All staff who may work front of house shall be trained to operate the CCTV system and download images.
 - At least one member of staff trained to operate the CCTV system and download images shall be on duty at all times the premises are open to the public. Footage shall be shown to the police and screenshots provided to them on request. Copies of downloaded images shall be provided to the police on a USB stick, CD or other acceptable means as soon as possible and in any case within 24 hours of the request.
- All staff who work front of house will be trained for their role on induction, training must include their roles and responsibilities around the licensing objectives. They must be given refresher training every six months and sign to say they have received such training. Written training records will be kept for each staff member and be produced to police and authorised council officers on request. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict and responsible alcohol retailing.
- An incident book shall be kept at the premises, and made available to the police or authorised council officers, which will record the following:
 - All crimes reported,

- Any complaints received,
 - Any faults in the CCTV,
 - Any refusal in the sale of alcohol,
 - Any visit by a relevant authority or emergency service.
- Notices will be prominently displayed by the entry/exit door and point of sale (as appropriate) advising customers:
- That CCTV and Challenge 25 are in operation.

The protection of children from harm

- Challenge 25 shall be operated as the proof of age policy and only a valid passport, photo driving licence, HM Forces photographic ID card or proof of age card with the PASS logo or hologram on it may be accepted as proof of age.
- All refusals of the sale of alcohol shall be recorded in the refusals section of the incident book (or electronically if available). The incident book shall be kept and produced to police and authorised council officers on request.
- Notices for Challenge 25 will be prominently displayed by the entry/exit doors and point of sale.
- Unless an epos system with an automatic proof of age check reminder incorporated in it is in use a manual prompt will be displayed by the till(s) to remind staff to check proof of age where appropriate.

I further recommend that the licence for the shop be suspended for a period of one month in order to allow the full implementation of the conditions.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

| Day | Month | Year |
|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

Richard Daveley

Date

14th October 2022

Capacity

Responsible authority – Trading Standards

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)
As above

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Appendix 1

Tandas News
71 Silver Birch Road
Kingshurst
Birmingham
B37 6AS



Economy & Infrastructure Directorate

Trading Standards & Environmental
Compliance
The Core, Homer Road, Solihull
B91 3RG
Tel: 0121 704 6846
Email: tradingstandards@solihull.gov.uk
www.solihull.gov.uk

Date: 17th August 2022

Dear Sir or Madam

Age Restricted Products – Tobacco and Nicotine Inhaling Products
Notice of Test Purchasing in the area to underage children

I wrote to you recently regarding the sale of knives to underage children and to advise you that we would be undertaking a test purchasing exercise in the area and your business may be one that is tested.

We will now be extending this exercise to cover the sale of tobacco and nicotine inhaling products (Vapes). This means that we may also use underage volunteers to check compliance for this age restricted product also.

Our test involves volunteers engaged by Trading Standards, who are under the age of 18, entering retail premises selling knives or nicotine inhaling products in the attempt to purchase a knife, bladed item or a nicotine inhaling product. The volunteers are under the observation of a Trading Standards Officer or a Police Officer.

We carry out these tests in order to safeguard children and ensure that retailers do not sell age restricted products to children.

I have enclosed some information for you regarding the laws around the sale of tobacco and nicotine inhaling products.

For further information please contact 0121 7046846, tradingstandards@solihull.gov.uk or visit www.businesscompanion.info

Yours faithfully

Richard Staveley
Trading Standards & Environmental Compliance Manager

businesscompanion

trading standards law explained

Tobacco and nicotine inhaling products

In the guide

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This guidance is for England

Certain products cannot be sold to persons below a legal minimum age; for tobacco and nicotine inhaling products this legal minimum age is 18.

A packet of cigarettes must contain a minimum of 20 cigarettes and must only be sold in its original packaging. A notice must be displayed stating 'It is illegal to sell tobacco products to anyone under the age of 18'.

Tobacco products must not be on display in-store and there are also restrictions on how prices and price lists are displayed.

Young people should always be asked for proof of their age.

What is meant by tobacco, tobacco products and nicotine inhaling products?

'Tobacco' is defined as including cigarettes, any product containing tobacco for oral or nasal use (for example, snuff) and smoking mixtures used as a substitute for tobacco (for example, herbal cigarettes). 'Cigarettes' include cut tobacco rolled up in paper, tobacco leaf and other material in a form that is capable of being immediately used for smoking.

A 'tobacco product' is defined as "a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked or chewed".

A 'nicotine inhaling product' means a nicotine inhaling device (used to inhale nicotine through a mouth piece), nicotine cartridge (contains nicotine and forms part of a nicotine inhaling device) or nicotine refill substance (generally known as e-liquid). Nicotine inhaling devices are commonly referred to as 'e-cigarettes' or 'vapes' and the law covers both disposable and rechargeable types.

Age restriction on the sale of tobacco products

The law states that it is an offence for any person to sell any tobacco products (including cigarette papers) to a person under 18, whether or not it was for their own use. This is a strict liability offence, which means the owner of the business can be held responsible as well as the member of staff who made the sale. If you are charged with this offence, you have the defence that you took all reasonable precautions and exercised all due diligence to avoid committing the offence. This is

commonly known as the 'due diligence' defence. The '**Keeping within the law**' section of this guide includes steps that can be taken to provide a 'due diligence' defence.

You must display a notice that states:

IT IS ILLEGAL TO SELL TOBACCO PRODUCTS TO ANYONE UNDER THE AGE OF 18

The notice must be displayed in a prominent position and be easily visible at the point of sale. The notice must be no less than 297 mm x 420 mm (A3) and the characters must be no less than 36 mm in height. Your local trading standards service or your tobacco supplier may be able to provide a notice for you to use. It is an offence if you do not have the required notice on display, although the 'due diligence' defence is available to you.

Age restriction on the sale of nicotine inhaling products

A person who sells a nicotine inhaling product to someone under 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:

If I sell e-cigarettes or nicotine refills to people under 18 TRADING STANDARDS WILL PROSECUTE ME

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

Disposable, single-use nicotine inhaling products - generally referred to as 'disposable vapes' - are increasingly popular with children, largely due to their bright colours, appealing flavours and price. You and your staff should be alert to attempts by children to buy these products and take extra care to avoid underage sales.

Additional guidance for pharmacies (and other retailers that have not traditionally sold age-restricted products) has been produced by the Department of Health and Social Care (which was known simply as the Department of Health at the time), the Medicines and Healthcare products Regulatory Agency and the Chartered Trading Standards Institute.

Age of the person making the sale

If you employ children in your business, it is not illegal for them to sell tobacco products, provided of course that the customer is not under 18. However, leaving unsupervised children selling tobacco is not recommended as they may find it difficult to refuse customers in their own age group.

Persistent sales to under-18s

If you are convicted of selling tobacco or nicotine inhaling products to persons under 18, and at least two other offences occurred in the preceding two years relating to the same premises, trading standards can make an application to a Magistrates' Court for a restricted premises order and/or a restricted sales order.

A restricted premises order prohibits the sale from the premises of any tobacco, cigarette papers or nicotine inhaling products to any person, by you or any of your staff for a period of up to one year. You are entitled to make representations to the court as to why they should not grant the order.

A restricted sales order prohibits a specified person who has been convicted of a tobacco or nicotine offence from selling any tobacco, cigarette papers or nicotine inhaling products to any person and from having any management function related to the sale of tobacco, cigarette papers or nicotine inhaling products for a period of up to one year.

Offences are committed if a person sells tobacco, cigarette papers or nicotine inhaling products when a restricted premises order is in place or if a person fails to comply with a restricted sales order.

Proxy purchase of tobacco and nicotine inhaling products

An adult who buys or attempts to buy tobacco, cigarette papers or nicotine inhaling products on behalf of someone under 18 commits an offence. This is called 'proxy purchasing'.

It is the buyer and not the trader who commits an offence under these circumstances. However, be aware of young people loitering outside your premises; they may ask adult customers to buy tobacco, cigarette papers or nicotine inhaling products for them. It is advisable to refuse such sales.

Is it legal to sell single cigarettes?

No. A packet of cigarettes must contain a minimum of 20 cigarettes. It is an offence to sell cigarettes to any person other than in their original package. This means you must not split a pack and sell in lesser quantities.

Can tobacco be sold from vending machines?

No. Under the Protection from Tobacco (Sales from Vending Machines) (England) Regulations 2010, the sale of tobacco from an automatic vending machine is prohibited. If a sale takes place, the person who controls, or is concerned with the management of the premises where the automatic vending machine is located, commits the offence.

Any machines still on the premises can only be used for storage where the public do not have access to them (such as behind the bar) and must not display any advertising material.

Display and price marking of tobacco products

Under the Tobacco Advertising and Promotion (Display) (England) Regulations 2010, you are required to cover your display of tobacco products. It is an offence to display tobacco products unless a specific request to purchase tobacco has been made to you by a person aged 18 or over.

It is not an offence to display tobacco-related accessories such as cigarette papers.

If you are charged with an offence where a requested display was to a person under 18, you have the defence that you believed the person was 18 or over and you had taken all reasonable steps to establish their age or from their appearance no-one could reasonably have suspected that the person was under 18. Taking 'all reasonable steps' means asking the person for evidence of their age and the evidence would convince a reasonable person. If you are charged with an offence of causing the display of a tobacco product, you have the defence available that you exercised all due diligence to avoid committing the offence.

There are also strict requirements relating to the manner in which tobacco products are price-marked, as set out in the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010; there are only three forms of lists and labels that are allowed (see paragraphs 49-62 of the detailed guidance linked to below).

There are specific rules for bulk and specialist tobacconists (see paragraphs 38-39 and 60-62 of the detailed guidance).

Detailed guidance has been produced by the Department of Health and Social Care (DHSC), which was known simply as the Department of Health at the time) and the Chartered Trading Standards Institute to assist you in compliance.

A Q&A document from DHSC and CTSI is also available.

Cigarette lighter refills

Under the Cigarette Lighter Refill (Safety) Regulations 1999 it is an offence to supply any cigarette lighter refill canisters containing butane to anyone under 18. This is because of the potential for abuse by 'sniffing' the gas, which can be extremely dangerous. See 'Cigarette lighter refills' for further details.

Matches and lighters

It is not illegal to sell matches or lighters to children. However, it is recommended that you do not sell these items to children, who are unlikely to have a legitimate use for them.

Defences

If you are charged with any of the offences detailed above, you have the defence that you took all reasonable precautions and exercised all due diligence to avoid committing the offence. For age-restricted products such as tobacco this generally means that you believed the person was aged 18 or over and you had taken all reasonable steps to establish their age or that from their appearance no-one could reasonably have suspected that the person was under 18. Taking 'all reasonable steps' means asking the person for evidence of their age and that the evidence would convince a reasonable person.

Keeping within the law

In order to keep within the law and therefore satisfy the legal defences, you should introduce an age verification policy and have effective systems to prevent sales and display to under-18s. These systems should be regularly monitored and updated as necessary to identify and put right any problems or weaknesses, and to keep pace with any advances in technology.

Key best practice features of an effective system include the following.

Age verification checks

Always ask young people to produce proof of their age. The Chartered Trading Standards Institute, the Home Office and the National Police Chiefs' Council support the UK's national Proof of Age Standards Scheme (PASS), which includes a number of card issuers. You can be confident that a card issued under the scheme and bearing the PASS hologram is an acceptable proof of age.

A passport or UK photocard driving licence is also acceptable but make sure that the card matches the person using it and the date of birth shows they are 18 or over. Military identification cards can be used as proof of age but, as with other forms of identification, make sure that the photo matches the person presenting the card and check the date of birth. Be aware that military identification cards can be held by 16 and 17-year-old service people.

You do not have to accept all of the above forms of identification and it may be best to exclude any type of document that your staff are not familiar with.

Some young people may present false identification cards so it is advisable to also check the look and feel of a card. For example, the PASS hologram should be an integral part of a PASS card and not an add-on.

If the person cannot prove that they are at least the minimum legal age - or if you are in any doubt - the sale should be refused.

Please see the Home Office [False ID Guidance](#) for more information.

Operate a Challenge 21 or Challenge 25 policy

This means that if the person appears to be under 21 or 25, they will be asked to verify that they are 18 or over by showing valid proof of age.

Staff training

Make sure your staff are properly trained. They should know which products are age restricted, what the age restriction is and the action they must take if they believe a person under 18 is attempting to buy. It is important that you can prove your staff have understood what is required of them under the legislation. This can be done by keeping a record of the training and asking the member of staff to sign to say that they have understood it. These records should then be checked and signed on a regular basis by management or the owner.

Maintain a refusals log

All refusals of tobacco and tobacco products should be recorded (date, time, incident, description of potential buyer). Maintaining a refusals log will help to demonstrate that you actively refuse sales and have an effective system in place. Logs should be checked by the manager / owner to ensure that all members of staff are using them.

A specimen [refusals log](#) is attached.

Some tills have a refusals system built in. If using a till-based system, you should ensure that refusals can be retrieved at a later date. You should also be aware that some refusals are made before a product is scanned.

Till prompts

If you possess an EPoS system then it may be possible to use it to remind staff of age restrictions via a prompt. Alternatively, stickers can be used over certain product barcodes.

You should note that till prompts will not help you prevent offences under the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 as the scan and prompt takes place after the display has been made.

Signage

You must display the legally required tobacco notice (see '**Age restriction on the sale of tobacco products**' above). It is not a legal requirement but you can, if you wish, display a poster advising customers that you will not sell e-cigarettes or nicotine refills to under-18s (see '**Age restriction on the sale of nicotine inhaling products**' above). These should deter potential purchasers and act as reminders to staff.

Closed circuit television (CCTV)

A CCTV system may act as a deterrent and reduce the number of incidents of underage sales.

Online sales

If you sell by distance means, such as online or via a catalogue, you should set up an effective system capable of verifying the age of potential purchasers. Please see '[Online sales of age-restricted products](#)' for more information.

Packaging, labelling, advertising and tracking

For information on the requirements regarding packaging etc, see '[Tobacco etc: packaging, labelling, advertising and tracking](#)'.

Trading standards

For more information on the work of trading standards services - and the possible consequences of not abiding by the law - please see '[Trading standards: powers, enforcement and penalties](#)'.

Key legislation

[Children and Young Persons Act 1933](#)
[Children and Young Persons \(Protection from Tobacco\) Act 1991](#)
[Cigarette Lighter Refill \(Safety\) Regulations 1999](#)
[Tobacco Advertising and Promotion Act 2002](#)
[Protection from Tobacco \(Sales from Vending Machines\) \(England\) Regulations 2010](#)
[Tobacco Advertising and Promotion \(Display\) \(England\) Regulations 2010](#)
[Tobacco Advertising and Promotion \(Display of Prices\) \(England\) Regulations 2010](#)
[Children and Families Act 2014](#)
[Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations 2015](#)
[Standardised Packaging of Tobacco Products Regulations 2015](#)

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

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