



LICENSING TEAM, ENVIRONMENTAL HEALTH SERVICES

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A Guide to the Sale of Alcohol to Young People Licensing Act 2003

This guide explains the law on sales of alcohol to young persons under 18. Please ensure that all of your staff are aware of its contents. The premises licence holder and the designated premises supervisor are responsible for compliance with the laws designed to restrict the availability of alcohol to young persons.

This Act makes it an offence to sell alcohol to a person under the age of 18 years. Trading Standards and the police check whether premises are complying with the law through a programme of undercover test purchasing.

In the event that an illegal sale is made, there are defences in the Act.

The defence for the person who physically made the sale i.e. a member of staff is either:

1. that s/he asked the young person for evidence of their age and that the evidence produced was of a kind that would have convinced any reasonable person, or
2. that nobody could reasonably have suspected from the young person's appearance that s/he was under 18.

The defence for anyone else charged in connection with a sale (e.g. the employer of the member of staff who made the sale, or one of the personal licence holders) is that s/he exercised all due diligence to avoid the commission of the offence.

Due diligence means setting up a system to prevent offences being committed, and monitoring that system to ensure that it is effective and that staff are following it. Clear policies and effective staff training are essential to showing a due diligence defence.

How can illegal sales be prevented?

Most people are not good at judging ages. Research has shown that when adults are asked to judge the age of a group of young people, they are more likely to get it wrong than right. In some cases the variation in results can be dramatic e.g. an 18 year old was assessed as 13 by one person and 25 by another. Experienced school personnel and even paediatricians fare no better than the general public. Likewise, the commonly held belief that younger people, or people who have teenage children, are better at judging ages is wrong.

There are three things you can do to address this natural human failing. The first step is to make staff aware that it is normal to be a poor judge of age. It is vital that staff do not fall into the trap of thinking that they are good at judging ages – this is one rare occasion when the best thing you can do to help your employees is to undermine their confidence in their own abilities!

The second action is to make your staff aware of their defence. It is particularly important to explain to them that it involves an objective test – it is not purely about what they, as individuals, were thinking at the time of the sale. The only people who can safely be served alcohol without question are those who no-one could suspect are under 18. In practice this will mean people who are clearly well into their twenties. Likewise, staff cannot protect themselves simply by asking for ID – they need to look carefully at whatever form of proof of age is presented, and check that it is genuine and valid.

The third, and most effective, measure is to introduce a challenge policy which allows a margin for error. This could be “challenge anyone who looks 21 or under”. You could even set the age higher – 23 or 25, as you see fit. The higher you set the challenge age, the more protection you gain for yourself and your employees.

An additional measure that can be used to support your challenge policy is a refusal register. By requiring staff to make a note whenever they refuse a sale, you will be able to monitor how many people are being challenged and find out whether all staff are equally willing to challenge. Normal variations in personality may mean that some staff require more encouragement and support than others to ask young people for proof of age.

In order to ensure that your challenge policy is effective, you need to tell your staff what forms of proof of age are acceptable. Our advice is that you should only accept a passport, photo driving licence, or proof of age card that carries the PASS hologram as evidence of a young person’s age. PASS approved cards include CitizenCard and Validate Card. There is no obligation on licensees to follow this policy – for simplicity’s sake, you may decide to accept only one or two forms of proof of age. However, you should not accept birth certificates, paper driving licences, student cards or photocopied documents.

Once you have decided what your policies will be, it is important to communicate them to staff. New members of staff have a lot to learn and it may take them some time to assimilate all their training. It is essential that new staff are trained about licensing law before they are allowed to sell alcohol, and that, while they are still relatively inexperienced, a senior colleague is nominated to supervise them.

In the event that an illegal sale does occur on your premises, your due diligence will be investigated by trading Standards, so it is important to keep records of staff training, both induction and refreshers. The records should show who was trained, when, and what subjects were covered.