



This guidance document contains Assured Advice under the ACS Primary Authority Scheme. For more details visit www.acs.org.uk/assured-advice

7. ABOUT THIS GUIDE

This guide is provided by the Association of Convenience Stores in consultation with Buckinghamshire and Surrey Trading Standards. It was last updated in February 2018. Please refer to the ACS website for the most current version of this guidance.

ACS Primary Authority Scheme

This advice was developed by ACS, Buckinghamshire and Surrey Trading Standards, Woking Borough Council and Surrey Fire and Rescue Service; as part of a dedicated primary authority scheme. This means that all the advice that has this mark against it is 'Assured Advice'.

Assured Advice means that if you adopt this policy in your business, then it must be respected by all other local authorities and they cannot ask you to adopt a different policy.



This guide covers a range of different issues of best practice and law. Those that qualify as assured advice are marked by this hallmark.

To benefit from assured advice you must sign up to the ACS scheme. All ACS members can sign up to the ACS Primary Authority Scheme for details of how to join up visit www.acs.org.uk/advice

Relevant legislation and additional guidance

- ⁱ Pyrotechnic Articles (Safety) Regulations 2015
- ⁱⁱ Anti-Social Behaviour Act 2003
- ⁱⁱⁱ ACS Lads Mags Guide.
- ^{iv} BSDA Code of Practice for High Caffeine Content Soft Drinks
- ^v Licensing Act 2003
- ^{vi} The Cigarette Lighter Refill (Safety) Regulations 1999
- ^{vii} Children and Young Persons Act 1933
- ^{viii} Children and Families Act 2014 and Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015
- ^{ix} The National Lottery Regulations 1994
- ^x The Royal Pharmaceutical Society does not provide specific guidance on appropriate age for buying OTC medicines. Similarly, the Medicines and Healthcare Products Regulatory Agency (MHRA), which ensures that medicines and medical devices work and are safe, has not issued guidance. Some retail outlets may have specific company policies that restrict the sale of OTC medicines to children.
- ^{xi} Criminal Justice Act 1998
- ^{xii} Psychoactive Substances Act 2016
- ^{xiii} Video Recordings Act 2010
- ^{xiv} Pyrotechnic Articles (Safety) Regulations 2015
- ^{xv} Petroleum (Consolidation) Regulations 2014

PREVENTING UNDERAGE SALES

Understanding how to manage underage sales is probably the main compliance challenge a convenience store retailer faces. This guide explains what you are legally obligated to do; what you should consider doing as best practice; and how you put in place the policies and procedures that will help you to manage this difficult area successfully.

ASSURED

Alcohol
Lighter fuel/butane
Tobacco and cigarette papers
Fireworks
Aerosol paint
Christmas crackers
DVDs and video games
Lottery
Psychoactive substances

BEST PRACTICE

Knives
High caffeine/energy drinks
Magazines
E-cigarettes
Tobacco associated products
Medicines
Eggs and flour

CONTACT

For more details on this guidance contact a member of the ACS Team on 01252 515001.

For more details on ACS:
Visit: www.acs.org.uk
Call: 01252 515001
Follow us on Twitter: @ACS_Localshops

© ACS 2018. Design & illustration by www.fluiddesignstudio.com

1. WHAT IS AGE RESTRICTED?

KEY ● No age restriction in place ● Age restriction recommended ● Product is legally age restricted

See page 10 for the references below numbered ⁱ to ^{xviii} in the 'Relevant legislation or additional guidance' section.

FIREWORKS (16, 18)

Fireworks have different age restrictions based on what category they are. It is illegal to sell category F1 (indoor use, low hazard and low noise) fireworks such as party poppers to anyone under 16. It is illegal to sell category F2 (for outdoor use in confined areas) and F3 (for outdoor use in large open areas) fireworks to anyone under 18. In both cases an underage sale can lead to an unlimited fine and up to three months in prison.

Category F4 fireworks, category T2 theatrical pyrotechnics and category P2 pyrotechnic articles can only be sold to people over 18 who have specialist knowledge and these items must not be sold in convenience stores.ⁱ

AEROSOL PAINT (16)

Selling these products to an under 16 is against the law and can lead to fine of up to £2,500.ⁱⁱ

LADS' MAGAZINES (16)

Men's lifestyle magazines (Lads' Mags) do not have an age restriction, but you may choose to implement a policy to prevent their sale to under 16s.

ADULT MAGAZINES (18)

Adult (pornographic) magazines are not legally age restricted. However, it is commonly accepted and recommended that you do not sell pornographic magazines to anyone under the age of 18. There are also strict laws on display magazines that breach the Obscene Publications Act, and you should be careful about products obtained from less established trade channels.ⁱⁱⁱ

ACIDS / CORROSIVE SUBSTANCES

There is currently no legal age restriction for the sale of acid or corrosive substances. However, the government has committed to introduce an age restriction of 18 for corrosive substances (which is still to be defined). The Government has also committed to restrict public sales of sulfuric acid above 15% weight by weight under the Poisons Act 1972. The Poisons Act 1972 (as amended by the Deregulation Act 2015) regulates the sale of explosives precursors and poisons, and places a requirement on retailers and end users to report any suspicious transactions, significant losses or thefts. This includes some acids or corrosive substances used in cleaning products such as limescale removers and drain cleaners/unblockers, but covers a wide range of products.

CHRISTMAS CRACKERS (12)

Selling Christmas crackers to a person under the age of 12 is illegal and can lead to an unlimited fine and up to three months in prison.^{xiv}

DVDS AND VIDEO GAMES (12, 15, 18)

All DVDs carry a British Board of Film Classification (BBFC) certificate. All video games carry a Pan European Game Information (PEGI) Certificate. These are both legal age restrictions. It is illegal to sell or rent that product to someone who is under that certified age. The penalty is an unlimited fine and up to six months in prison.^{xv}

PSYCHOACTIVE SUBSTANCES

There is no legal age restriction on the sale of psychoactive substances such as solvent based glues, correction fluid, anti-freeze and others. However, it is recommended that retailers voluntarily age restrict potential psychoactive substances for those under 18 to prevent those at highest risk from gaining access to those products. Retailers should take reasonable steps to satisfy themselves that they are aware of the use of a potentially psychoactive substance.^{xvi}

KNIVES (18)

Selling a knife or blade to an under 18 is illegal and can lead to an unlimited fine and up to six months in prison. This does not include standard replacement cartridges for razor blades. Home Office guidance on the sale of knives is available at: <http://bit.ly/1YPJHSZ>^{xvii}

6. STAFF TRAINING

Training your staff to prevent underage sales is the key to staying on the right side of the law. This guide sets out some basic guidance about how to approach staff training in your business. More detailed advice and support is available, please direct any questions about this to ACS.

Members of staff should not be able to sell age restricted products in your store, until they have received full training, or are being directly supervised by a fully trained staff member.

Induction training should, as a minimum, include a clear explanation of the law and company policy. This document covers all the elements of age restricted sales policy that constitutes induction training. Talking through this guide with a new staff member is an effective form of induction training. You should also undertake at least one full hour of directly supervised customer service with you (or another experienced staff member) as part of induction training. You should also ask the team member to complete a question and answer exercise.

There are options for additional formal training that you can consider. The most common is the Award for Personal Licence Holders (specifically for alcohol), and is a requirement for all store owners or managers who are designated premises supervisors. There are also other qualifications available accredited to the National Vocational Qualification (NVQ) standard. These qualifications should be considered for staff who have management or supervisor responsibilities. For more information on these, visit: <http://www.cityandguilds.com/qualifications-and-apprenticeships/retail-and-warehousing>

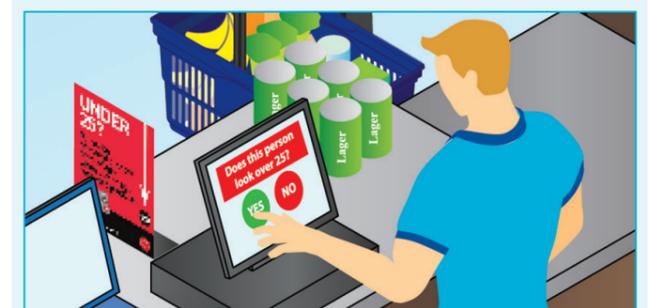
You should also undertake regular refresher training. This is where you refresh your staffs knowledge about the law and company policies. Remember, refresher training does not have to be formal you should aim to regularly discuss the underage sales prevention issues with your team. You could consider displaying the advice in this guide in your back offices or behind your till points.

We recommend that you undertake formal refresher training with your staff at least once every six months. One form of refresher training is to use simple questions and answer sheets. Ensure your staff sign and date a copy of their training sheets and keep it on file with your other training records.

Question and answer sheets for both induction and refresher training are available, for members only, to download from: <http://www.acs.org.uk/advice/age-restrictions/>

Age of staff selling age restricted products

It is illegal for anyone under the age of 18 to sell alcohol without the direct supervision of someone who is over 18 and fully trained. The same applies for under 16s selling lottery tickets.



Retailers often use their electronic point of sale systems to help with underage sales prevention. These systems can be a significant help, prompting staff to employ the Challenge 25 policy, and also helping management to monitor how the policy is being applied in store. The key point to bear in mind when using electronic point of sale systems are:

- EPOS systems do not replace staff awareness of how to prevent underage sales
- Make sure they are programmed correctly to include all the age restricted products on sale in the store
- If they are linked to CCTV make sure they are maintained and working effectively

If you have any specific questions about your EPOS system and underage sales prevention, please contact ACS.

5. RECORD KEEPING

Keeping good records is imperative to showing your excellent standards in preventing underage sales. This will be essential should the police, trading standards or licencing officers come to check your store's compliance.

Your company policy

We recommend that you have a document on file that sets out your company's policy on preventing underage sales. This should be easily accessible in every shop that you operate. You are legally required to have an age verification policy in place for the sale of alcohol. If you have one policy that covers

Your staff training

It is vitally important that you keep records of the training your staff undertake. Each member of staff should have their own training record which records the date they underwent induction training and the dates of any addition training and/or refresher training. This record should be signed by the employee after every training session.

Your refusals register

It is vital that you and all your staff record each time you refuse a sale for failure to provide valid identification or under the suspicion the product was being bought as part of a proxy purchase.

Most retailers keep a book or folder for this purpose. However, some retailers choose to integrate the recording of an underage sale refusal into their electronic point of sale equipment. This is fine, as long as you can generate reports if you have an inspection.

A refusals register must be regularly reviewed by you or other management employed in your business. You should assess the register for evidence of:

Understanding 'due diligence'

Effective underage sales policies are in place to ensure you play your part to prevent age restricted products landing in the hands of children. However, it is also important to show you have strong policies and procedures if an underage sale takes place at your store.

You can significantly reduce the sanction you receive for having made an underage sale if you can show 'due diligence'. This means that you have done all you reasonably could and that there is no need to pursue a prosecution or other action against you.

It is vitally important that you keep records of your policies on the products that are age restricted by law. It is also sensible to keep similar records for other products where you choose to have policies in place.

all age restricted products, including alcohol, this satisfies the specific legal obligation.

A template of this document is available for primary authority scheme members to download at www.acs.org.uk/underagesales

An example template of a staff training record is available for primary authority scheme members to download at www.acs.org.uk/underagesales

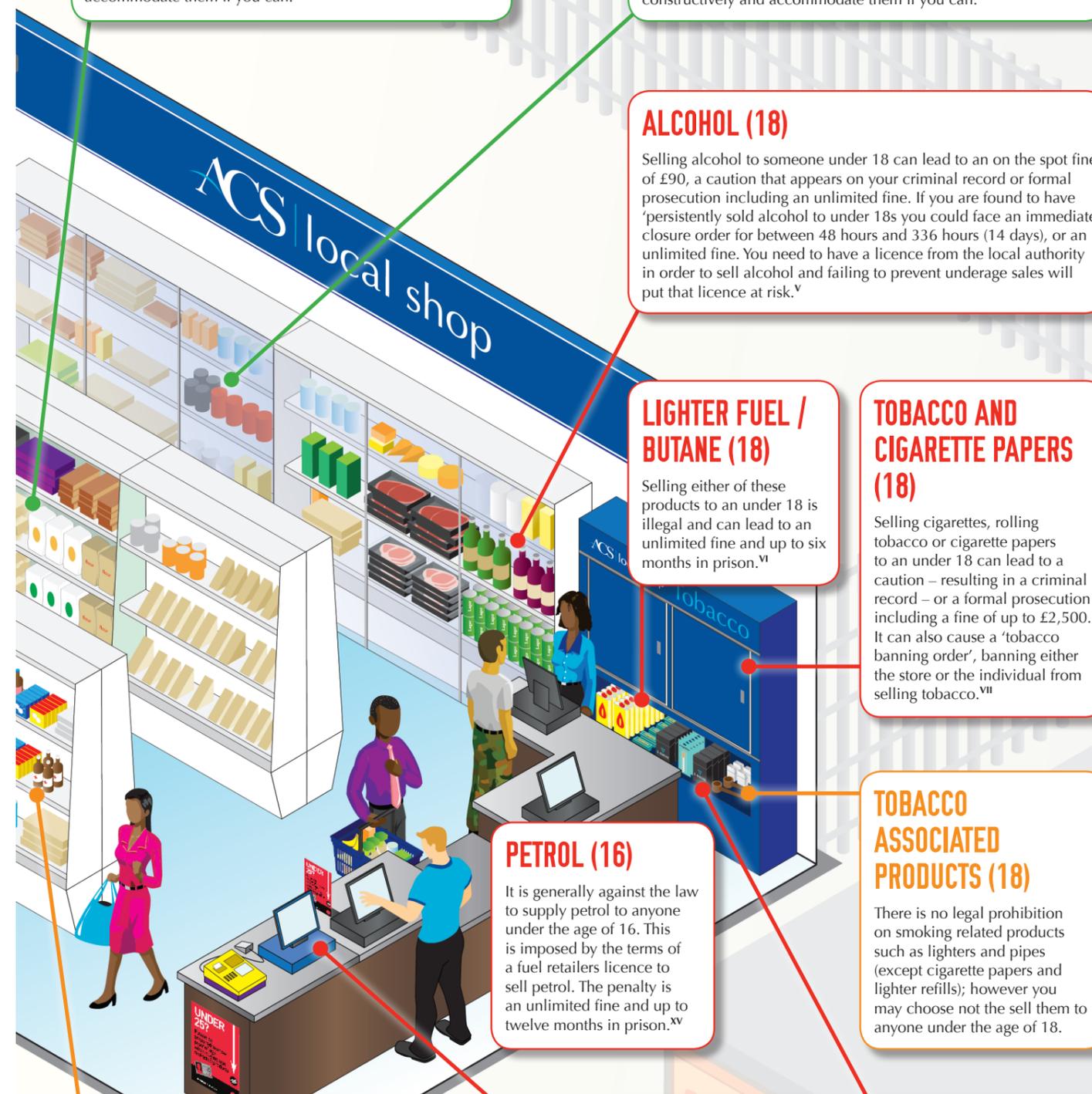
- days and times when refusals appear to not be taking place.
- staff members that appear to not be refusing (or recording refusals).
- If you notice anything unusual about the pattern of refusals recorded you should investigate to find the cause. This may involve checking CCTV, where available, for the time period or speaking to the members of staff involved. You should make a record of the investigation and any action taken to address the findings.

Each time your refusal records are thoroughly checked by you or other management, this should also be recorded.

An example template of this document is available for primary authority scheme members to download at www.acs.org.uk/underagesales

Due diligence legally applies to the following age restricted products alcohol, tobacco, knives, videos and DVDs.

The requirements of due diligence vary according to the size and nature of your business. A business operating one or two stores following the procedures set out in this guide would satisfy 'due diligence' for preventing underage sales. It may be that a bigger business could be reasonably expected to have further procedures in place. To discuss the appropriateness of this guidance for a large business please contact ACS.



EGGS, FLOUR AND TOILET PAPER

There is no legal prohibition on sales of eggs, flour or toilet paper to an underage person. However there are times in the year especially around Halloween (31 October) when local police or other community representatives may ask you to limit their sale to under 18s to prevent anti-social behaviour. You should listen to such requests constructively and accommodate them if you can.

HIGH CAFFEINE / ENERGY DRINKS (16)

There is no legal prohibition on energy drinks. However you should be aware that all major UK manufacturers advise that these products are not suitable for children which they define as under 16 years old. You may decide to impose a restricted sale policy on your own initiative, or you may be asked to do so by the local school or parents group. You should listen to such requests constructively and accommodate them if you can.^{IV}

ALCOHOL (18)

Selling alcohol to someone under 18 can lead to an on the spot fine of £90, a caution that appears on your criminal record or formal prosecution including an unlimited fine. If you are found to have 'persistently sold alcohol to under 18s you could face an immediate closure order for between 48 hours and 336 hours (14 days), or an unlimited fine. You need to have a licence from the local authority in order to sell alcohol and failing to prevent underage sales will put that licence at risk.^V

LIGHTER FUEL / BUTANE (18)

Selling either of these products to an under 18 is illegal and can lead to an unlimited fine and up to six months in prison.^{VI}

TOBACCO AND CIGARETTE PAPERS (18)

Selling cigarettes, rolling tobacco or cigarette papers to an under 18 can lead to a caution – resulting in a criminal record – or a formal prosecution including a fine of up to £2,500. It can also cause a 'tobacco banning order', banning either the store or the individual from selling tobacco.^{VII}

TOBACCO ASSOCIATED PRODUCTS (18)

There is no legal prohibition on smoking related products such as lighters and pipes (except cigarette papers and lighter refills); however you may choose not to sell them to anyone under the age of 18.

PETROL (16)

It is generally against the law to supply petrol to anyone under the age of 16. This is imposed by the terms of a fuel retailers licence to sell petrol. The penalty is an unlimited fine and up to twelve months in prison.^{IX}

MEDICINES (12, 16)

There is no legal prohibition on the sale of General Sales List (commonly known as over the counter) medicines such as aspirin and paracetamol in convenience stores. However it is recommended that you do not sell aspirin containing products to a person under-16 or an analgesic (such as paracetamol) to anyone under the age of 12. You should also never sell any such product in quantities greater than 32 tablets in one transaction to anyone.^X

LOTTERY (16)

Selling a lottery product (including scratch cards) to someone under the age of 16 is against the law. The penalty is an unlimited fine and up to two years in prison. It is also illegal to pay out a prize to someone under 16. This is generally enforced by the lottery operator. Underage sales can lead to a termination of contract and removal of your lottery terminal.^{IX}

E-CIGARETTES (18)

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. The penalty for selling these products is a fine of up to £2,500.^{VIII}

2. APPROACHES TO PREVENTING SALES

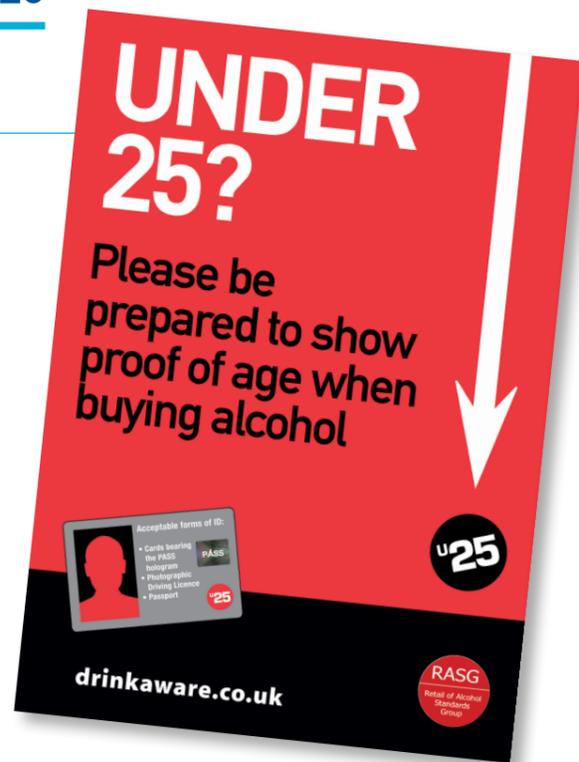
Challenge 25

ACS recommends the use of Challenge 25 policies for all underage sales.

Challenge 25 is a store policy based on two simple principles:

1. All staff serving customers should be trained to 'think 25'. This means if a customer is seeking to buy an age restricted product (of any kind), the staff member should ask themselves the question – 'does the person in front of me look like they might be under the age of 25 years?' If the answer is yes, then they should ask the person for a valid proof of age. If the identification confirms they are over the legal age of purchase for that product, then it can be sold to them.
2. The store policy is clearly communicated to customers, usually through the use of visible in-store signage.

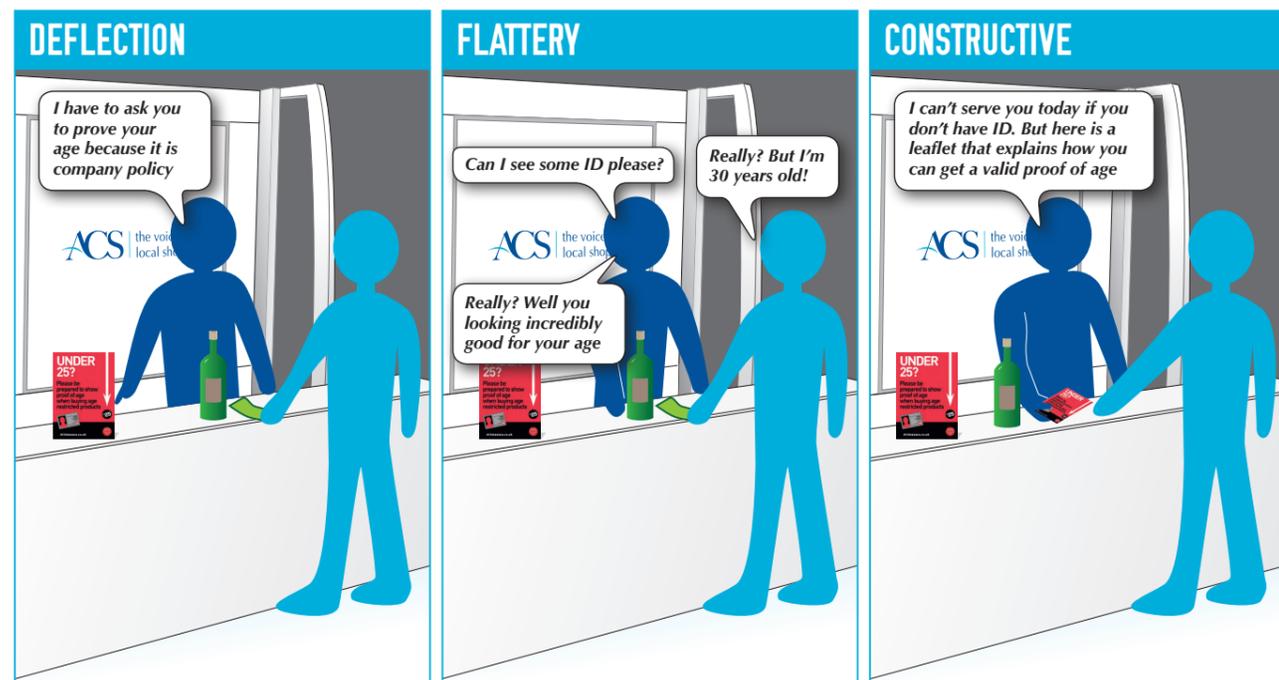
Posters are available to download and print from <http://www.challenge25.org/downloads.html>



Common refusal approaches

It is normal for retailers and staff to feel apprehensive or awkward about asking people to prove their age. However this is something that they must overcome, and initial concerns are best dealt with through developing strategies for approaching the issue that suit the individual.

Also, it is worth bearing in mind, that whilst it feels awkward for staff, it is actually something that young people are very accustomed to and the vast majority expect to be asked. Here are the most common approaches you can use:



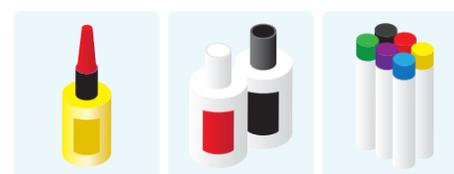
4. PSYCHOACTIVE SUBSTANCES

The Psychoactive Substances Act (2016) came into force on 26 May 2016, replacing previous legislation on intoxicating substances. The primary purpose of the legislation is to stop the sale of items that are commonly known as 'legal highs'. However, the Act will also have implications for legitimate retailers, which in many cases will sell psychoactive substances such as butane and solvents entirely legitimately.

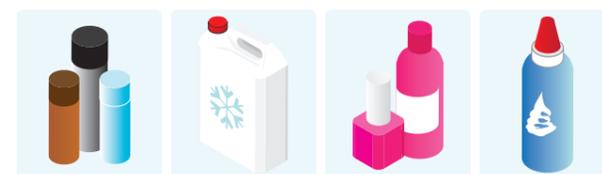
What is a psychoactive substance?

Under the new rules, a psychoactive substance is defined as one which affects a person's mental functioning or emotional state by stimulating or depressing their nervous system. In practice, this would include the kind of effect that we associate with controlled drugs, such as hallucinations, changes in alertness, perception of time and space, mood or empathy with others and drowsiness.

All of the substances that were covered by the previous Intoxicating Substances Act will now be covered by the Psychoactive Substances Act. This includes the following:



Solvent based glues Correction fluid and thinner Marker pens



Aerosols: including deodorant, furniture polish and air fresheners Anti-freeze Nail varnish and nail varnish remover Nitrous oxide canisters (such as those used in whipped cream dispensers)

What is not a psychoactive substance?

A large range of substances are exempt from the Psychoactive Substances Act because they are fully regulated by existing laws. These exempted substances are:

- Food
- Any medicinal products
- Alcohol
- Controlled drugs
- Nicotine and tobacco products
- Caffeine

Retailer's responsibilities

Under the regulations, retailers are expected to take reasonable steps to satisfy themselves that they are aware of the use of a potentially psychoactive substance. These reasonable steps are detailed below.

Age restrictions

The new legislation provides no legal age restriction on the sale of psychoactive substances for purposes other than consumption, but it is recommended that retailers voluntarily age-restrict potential psychoactive substances for those under 18 to prevent those at highest risk from gaining access to these products.

Retailer checklist (reasonable steps)

- Be aware of any substances you sell in store that could be psychoactive
- Make sure your staff are trained to be able to identify and assess the risk of the psychoactive substances you sell
- Consider placing warning signs in store to highlight policies to customers and staff
- Consider policy to restrict the quantity of psychoactive substances being sold i.e. using Electronic Point of Sale Point of Sale Checklist (Reasonable Steps)

Retailers should train their staff to use the following checklist:

- What is the apparent physical/mental state of the customer? Are they drunk/intoxicated? Do they have physical symptoms of intoxication, such as bad skin, weeping eyes or a rash around the nose?
- What is the substance? Is it something that has been flagged as high risk?
- What quantity of the product is the customer attempting to purchase?
- What time is the purchase taking place? Items purchased during unsociable hours might be more at risk for example late in the evening
- What else is the customer buying? Is it part of a weekly shop, or solely a purchase of a psychoactive substance?

Testing

An established retailer, which sells a wide variety of products entirely legitimately, is not expected to know whether each and every one of them contains a psychoactive substance. Retailers are not expected to undertake testing of substances to confirm whether they are psychoactive.

Penalties

For summary prosecutions, imprisonment not exceeding 12 months or a fine. On indictment, imprisonment of up to seven years and an unlimited fine. Breaching the Psychoactive Substances Act can also have an impact on your alcohol licence, which could include a review of your premises licence or the removal of a personal licence.

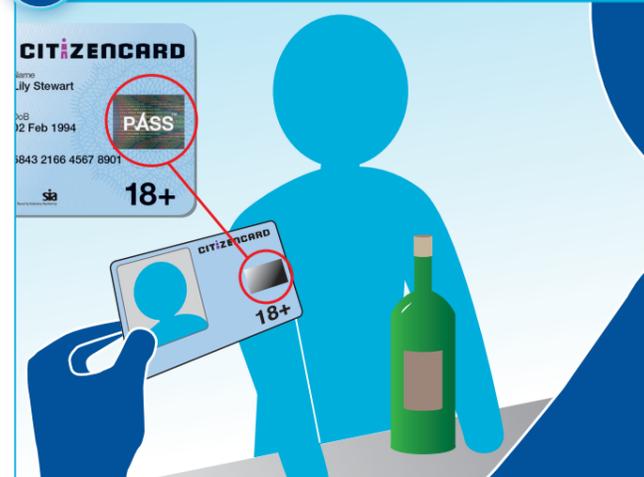
ID checklist (continued)

STEP 3: CHECK THE DOCUMENT



- Ensure the card has not been tampered with or altered (for example the printed dates have been altered using a pen or marker).
- Feel the card in order to identify whether anything has been stuck to the card.
- Examples of acceptable documentation are available on page 6.
- Check for security features on a driving licence, such as raised text and an image that changes when the card is tilted to ensure it is genuine. Only accept cards that have the expected security features.

STEP 4: CHECK THE PASS HOLOGRAM (IF NOT A PASSPORT OR DRIVING LICENCE)



- Look for the 3D effect in the background of the hologram.
- Make sure it has the characteristic tick on the 'A' in the PASS lettering.
- The hologram must be flush with the plastic of the card – NOT stuck on top of the plastic.

STEP 5: CHECK THE PERSON



- If you are still unsure about a person's age, your legal responsibility is to refuse to sell.

Avoiding conflict

EARLY INTERVENTION



If you see a youth or group of youths that you suspect may be preparing to attempt to buy alcohol, try and make a non-confrontational early intervention. That lets them know you are aware of them, often deterring them.

STAY CALM AND POLITE



One way to avoid personal abuse, is to make clear that it is not your decision, but it's company policy, or because of the rules applied to your licence.

SEEK HELP



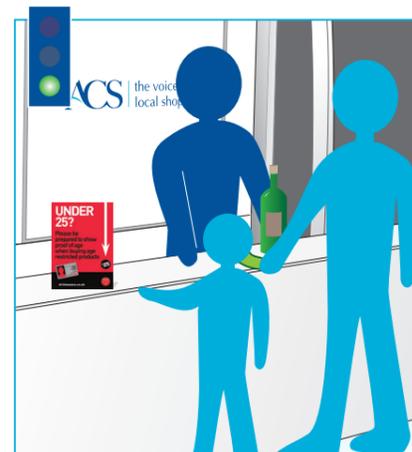
If you fear for your safety, you should try to remove yourself from the situation or call for help. If you receive abuse or threatening behaviour, make sure you report it to your manager. For more advice on dealing with violence and abuse visit: www.acs.org.uk/advice

Proxy sales

It is illegal to sell alcohol, tobacco and nicotine inhaling products to a person who you know is going to supply it to a person under age.. This is commonly called a 'proxy sale'. Whilst this is not the case for the other legally restricted products, you should consider adopting a common approach to identifying and preventing proxy sales across all age restricted products.

It can be very difficult to know if an adult intends to buy an age restricted product for or on behalf of someone who is underage. Therefore, you are only expected to act when an obvious proxy sale is taking place.

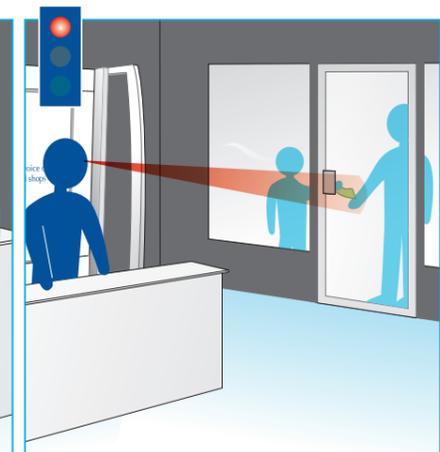
Here are some common scenarios:



Just because a customer is accompanied by someone who is clearly underage, that does not mean you should suspect them of being a proxy purchaser.



If you see the adult asking the child what alcohol they want, or if the child's behaviour suggests the alcohol is for them – then you should refuse the sale.

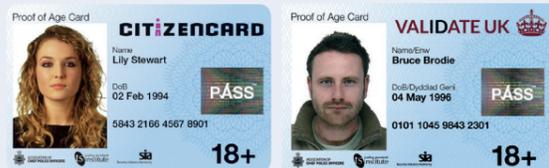


Try, as far as possible, to monitor what is happening outside your store, especially, if young people are hanging around. If you see what looks like an adult being asked to buy a product by a person outside the store, refuse the sale to that person and report it to the police.

3. PROOF OF AGE

ACS recommends you accept the following forms of Identification as valid proof of age:

- Passport
- Photo driving licence
- Proof of Age Standards Scheme (PASS) approved proof of age cards.



Proof of Age Standards Scheme

The PASS scheme exists to provide you with reassurance about which cards you can accept as valid proof of age. There are a number of card schemes which carry the PASS hologram. For details of all the PASS approved cards visit: <http://www.pass-scheme.org.uk/>



You may want to help your customers to obtain valid ID, you can do this by having materials detailing how to apply for a PASS card scheme on your premises. These are available from CitizenCard at: www.citizencard.com

Military ID

The Government recommends that military ID cards can be used as proof of age. Guidance on how to identify these cards, including examples of British Army, Royal Navy and Royal Air Force ID cards was published in the Home Office False ID guidance in July 2012 <http://bit.ly/1zUSJCe>. There are a number of different cards and so understanding what is, and is not, a legitimate card can be confusing.

If you trade near a military base, or have a large number of service personnel as customers, then we recommend you should familiarise yourself with the types of military ID used in your area. There are separate ID cards for each of the armed forces (army, navy and air force).

Military ID cards are held by all serving personnel, including 16 and 17 year olds, so you must check the details on the card, including date of birth and expiry date. There is no requirement for these cards to be signed.

Other foreign ID

You may have customers that seek to prove their age with non-UK passports or National Identity Cards. You can expect that all EU and most other international passports will carry the following distinguishing features:

- paper that does not reflect ultraviolet light or whose fluorescence is easily distinguishable from the blue used in commonly available fluorescent materials;
- watermarking on the biographical data and visa pages;
- an intricate, repetitive pattern as the background design on each page;
- a background design on the biographical data page that is different to the design(s) on other pages in the passport;
- ultra-violet fluorescent ink on the biographical data page.

If you have suspicions about the validity of any foreign passport or ID card you can refuse the sale, but UK equality legislation requires that you do not impose a policy of refusing all foreign passports or identity cards.

ID checklist

REMEMBER young people attempting to deceive you into selling them an age restricted product can do so by presenting you with:

- A genuine ID that has been tampered with.
- A genuine ID that is not actually theirs.
- A fake ID that is an imitation of a genuine ID card type.
- A fake ID that is made for the purpose of looking genuine, but is not a real scheme.

✓ **STEP 1: CHECK THE PHOTOGRAPH**



- Ensure that the photograph is of the person presenting the card.
- The photograph must be printed directly onto the plastic of the card – NOT stuck on top of the plastic.

✓ **STEP 2: CHECK THE DATE OF BIRTH**



- Calculate the age of the person from the date of birth.
(It may be useful to have a note on the birth year for a 16 and 18 year old on the till point.)
- The date of birth must be printed onto the plastic – NOT handwritten or stuck on top of the plastic.