

# NORTHAMPTON BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

Tuesday, 15 February 2011

- COUNCILLORS PRESENT:** Councillors Wilson, Reeve and Woods  
**OFFICERS:** Louise Faulkner (Licensing Administrator)  
Gary Stokes (Licensing Enforcement Officer)  
Mohammed Rahman (NBC Solicitor)  
Steven Holder (NBC Trainee Solicitor)
- FOR THE APPLICANT:** Mehmet Dermen Bayran (Applicant)  
Steve Dadds (LLP Solicitors)
- FOR THE REPRESENTORS:** Mr Cox (Resident)  
Mr Graham-Hole (Resident)  
Mr Young (Beacon Bingo)  
Mr Payne of Horsey Lightly Fynn Solicitors (on behalf of KP News Off Licence)  
Mr or Mrs White (Resident)

### 1. **BEST ONE (MED FOOD CENTRE), 85-87 WEEDON ROAD, NORTHAMPTON, NN5 5BG**

*Please Note: At this point of the meeting Councillor Woods's noted that he was aware that County Councillor Patel owned KP News who was objecting to the Application. Mr Payne of Horsey Lightly Solicitors who was representing KP News stated that Councillor Patel's County Council membership had no bearing on this case and confirmed that the objection had not come directly from him. Steve Dadds from LLP Solicitors (for the Applicant) accepted that the Sub-Committee would be objective and base their decision with fairness and transparency and he was grateful for the declaration. Councillor Wilson noted that she had heard of County Councillor Patel but had never met him.*

The Chair introduced the Sub-Committee and welcomed everyone to the meeting.

#### **Outline of the Application by the Licensing Officer**

The Licensing Officer outlined the application by Mr Mehmet Dermen Bayran for a Premises Licence in respect of 85-87 Weedon Road, Northampton. She noted the objections received from residents and businesses local to the Premises and then explained the procedure for the hearing.

Mr Payne commented that at this point in the meeting, that there were some discrepancies in regard to the display notices concerning the application.

It was confirmed that the application was sent on 17 December 2010 but as this was a period of bad weather and snow Royal Mail had ceased to guarantee timescales for delivery. The notice was posted on the premises on 17 December 2011 and the 28 day notice period commenced at this time

*At this point Members adjourned to take Legal Advice.*

Members questioned Gary Stokes, Enforcement Officer, about the dates the application was

received and the timescale that the Notice was displayed. It was explained that the Licensing Authority had received a call from a member of the public regarding this application and as an application had not been received Mr Stokes visited the premises on 20 December 2011 to view the notice, to ensure its visibility and request when the application would be received. The application was received and stamped by the Licensing Authority on 23 December 2010 and it was noted that that the applicants did not ensure receipt of the application directly with the Licensing Authority.

Therefore, the end date of objections was assumed to be 14 January 2011 and this was the one publicised by the applicant. The applicants' representatives wished to note that there was not unfair or prejudice toward the objectors because they were still granted enough time to raise objections, given the quantity received.

Mr Payne wished to confirm that this authority had no provision under the Licensing Act 2003 to extend or reduce deadline periods. He also commented that with the best will in the world, the application would likely not have been received by the authority until Monday 20 December 2010, as it was posted on Friday 17 December 2010. Due to this, the notice period from 17 December 2010 was incorrect.

*At this point Members adjourned to take Legal Advice*

On return the Sub-Committee announced that they had taken into account all submissions with regards to the Notices and the dates of application.

It was noted that, in the Applicants own submission, the application was posted on 17 December 2010 and the original Notice displayed on the premises showed the end date for objections to Northampton Borough Council was 14 January 2011.

It was advised that given the submissions made, the Sub- Committee had looked at this matter very carefully.

The Sub-Committee confirmed that notwithstanding legal arguments which had been raised about the interpretation of when the Notice period commenced, the earliest possible date it could have commenced would have been the day after the application was posted i.e. 18 December 2010. It was noted that based on that date of receipt, the period for objections could not have had the deadline of 14 January 2011 as stated in the Notices and remained valid, the earliest deadline must have been at least 15 January 2011. In addition, the Council confirmed it had no discretion to extend the objection period.

While the Sub-Committee saw this as a technical breach, they were bound to take a strict interpretation of the law and had no option but to reject this application.

It was advised that, assuming the applicant wished to submit a new application, the Licensing Authority would not be able to carry forward any of the objections made in relation to this particular application, instead, objectors were requested to submit fresh objections.



Our Ref: dd/sw/ADA1-9

Your Ref:

14/02/2011

Dear Resident,

**Re: Best One, 85-87 Weedon Road, Northampton, NN5 5BG**

Thank you for your representation regarding the above premises.

We endeavour to engage with you and understand your concerns and we therefore enclose the following herewith for your perusal:

1. A copy of the Training Manual for Best One
2. A copy of the proposed Conditions for Best One

We hope these will alleviate any concerns you may have, but should you have any questions relating to the above premises, please do not hesitate to contact Mr Dadds on 07798 552371 who will happy to discuss them with you.

Yours faithfully

**DADDS LLP**

**Dadds Solicitors**

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IN THE NORTHAMPTON BOROUGH COUNCIL

MR MEHMET BAYRAM  
(85-87 WEEDON ROAD, NORTHAMPTON, NN5 5BG)

Applicant

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CONDITIONS

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1. The premise licence holder will engage and operate the Challenge 21 scheme along with a "no ID no sale policy". Staff will not sell alcoholic drinks to any person who appears to be under 21 unless they can provide photographic ID evidence showing them to be over 18.
3. Reasonable and adequate staff training to be carried out and properly documented in relation to: (i) dealing with incidents and prevention of crime and disorder: (ii) sale of alcohol (to underage, persons over 18 purchasing for underage, drunks etc.) prior to being allowed to sell alcohol.
4. All training records, incident and refusal registers are to be retained for 12 months and made available to Police and Local Authority licensing officers upon reasonable request (incident book/refusal register may be one of the same).
5. Refresher training to be satisfactorily completed every six months for all staff and documented with the training records.
6. The Training manual shall be kept and maintained in both English and Turkish and made available to Police and Local Authority licensing officers upon reasonable request.

Dated this                      day of February 2011.

Signed.....  
On behalf of the Applicant

Best One  
Training Manual  
Licensing

Med Food Centre  
85-87 Weedon Road  
Northampton  
NN5 5BG

## **Foreword**

This Training Manual has been developed to assist employees of **Best One** and understand the laws and regulations in relation to age-restricted products, in order to prevent unlawful sales of those products.

Whilst the emphasis is on the prevention of unlawful alcohol sales, all the other age-restricted products are also covered. We believe that this comprehensive Training Manual will assist you in fulfilling your legal and social responsibilities in relation to the sale of age-restricted products and that will contribute to raising our standards as a whole.

Please read this manual thoroughly and, if in any doubt about the requirements, ask your Manager for clarification. A training review will be carried out and recorded every 3 months to reinforce these requirements and ensure you are complying with them.

These requirements are to be implemented immediately.

Mehmet Demen Bayram  
Designated Premises Supervisor

## IMPORTANT INSTRUCTION

### THE TEN GOLDEN RULES

1. (a) Young persons under the age of 18 must not be permitted to buy alcoholic drinks. (Our Company Policy is that anyone appearing to be under 25 must prove that they are 18 or over, by providing acceptable proof of age ID)  
  
(b) Young persons under 18 must not be permitted to sell alcohol without direct supervision by a senior member of staff, who must be over 18.
2. Persons who are under the influence of drink must not be sold alcoholic drinks.
3. A Police Officer in uniform must not be sold alcoholic drinks.
4. You must not allow people to drink on or outside the premises.
5. You must ensure that the “Challenge 25” prohibitive sign and the Trading Hours are prominently displayed.
6. Be very aware of persons over 18 who try to buy for under 18’s. Refuse the sale and record in the refusal book.
7. Be vigilant, constant supervision of the drinks area is not only necessary to deter pilferage, but to prevent under 18’s trying to select alcohol.
8. Before each transaction identify the customer. If in doubt ask for proof of age.  
For this you can accept:-
  - a) a Recognised proof of age card with the PASS logo which include the Bite, Portman Group, Citizen, Connexions, Validate, Young Scot etc. identity cards, showing photo, date of birth and signature.
  - c) a Current Passport
  - d) the new style Driving Licence with photo

### THE OLD STYLE DRIVING LICENCE WITHOUT A PHOTO IS NOT ACCEPTABLE

#### **THE MAXIM YOU MUST FOLLOW IS:-**

9. If in doubt do not make the sale. You have the right of refusal which will be backed up by the Manager and the Company. If a refusal is actioned, record the details in the refusal book e.g. male/female, date, time, reason – underage, drunk abusive.
10. Be aware of the licensing hours and ensure that the blinds are down or tensor barriers in place to prevent access to alcohol displays outside of permitted alcohol trading hours and that no sale takes place outside these hours.

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# **Unit 1:**

## **Unlawful Sales**

### **1.1 The reasons why the law restricts the sale of certain products**

#### **1.1.1 Health and welfare**

Certain products are considered to present risks to the health, safety and welfare of children and their use by children may also directly or indirectly, affect the health, safety and welfare of others. Because of these risks the law prohibits sales of these products unless a customer has reached a minimum age. There are 14 categories of 'age-restricted' products and the minimum age that a customer must have reached to purchase them differs according to the product.

Alcohol is an age-restricted product, and under licensing law a sale of any alcoholic drink may not lawfully be, made to a person who is drunk; even if that person has reached the age at which they can lawfully purchase alcohol, which is 18. The reasons for this are that selling alcohol to drunken persons increases the health, safety and welfare risks to that person, and to others.

#### **1.1.2 Categories of age restrictions**

The law sets out those minimum ages should have been reached for the purchase of particular products, and these age categories are based upon accepted judgements. Any potential purchaser should be someone who is therefore competent to make an informed decision about the purchaser; to use the product in a sensible and responsible manner, and who has developed physically and mentally to the point where the use of the product will not cause harm. The minimum age requirements in respect of most age-restricted products are 16, 17 and 18 years old. In regard to the sale or hire of DVDs, videos and computer games the age categories are 12, 15 and 18 years old.

#### **1.1.3 Categories of harm resulting from underage sales of age-restricted products**

There are risks of selling age restricted products to underage persons. Their health, safety and welfare may be compromised and this may lead to significant harm to individuals and to society as a whole. The main categories are:

- 1 Physical harm to the purchaser

- 2 Psychological harm to the purchaser – mental health problems
- 3 Moral harm to the purchaser – inappropriate exposure
- 4 Increased vulnerability to harm caused by others – physical or sexual assault
- 5 Harm to others arising from underage use

## **1.2 Alcohol**

### **1.2.1 What is alcohol?**

Alcohol is an intoxicating substance the active ingredient of which is ethanol. Licensing law defines ‘alcohol’ as being ‘spirits, wine, cider or any other fermented, distilled or spirituous liquor’. For the purpose of licensing law it does not include any liquor of 0.5% strength or below at the time of sale; it does not include perfume, flavouring essence, alcohol contained in any medicine, denatured alcohol (methylated sprits) or alcohol contained in liqueur confectionery.

### **1.2.2 Strength of alcoholic drinks**

The strength of an alcoholic drink is measured by the amount of alcohol it contains relative to the total volume of the drink. This measurement is known as ‘alcohol by volume’ (ABV). Any drink that contains ABV of 0.5% or more is classified as an alcoholic drink under licensing law; the higher the ABV, the stronger the drink. All alcoholic drinks with an ABV of 1.2% or more must have their ABV stated on the label on the drinks packaging or beer font and price list.

#### **Examples**

**Beers** – when labelled as 3.5% ABV this means that 3.5% of any given quantity of beer is pure alcohol. There are over 1,000 beers and ciders on sale in the UK, the vast majority of which have an ABV of between 3% and 9%. There is a small range of extremely strong beers whose ABV is between 9.5% and 13%.

**Spirits** – whisky, gin, vodka and rum- the ‘core sprits’ – when labelled as 37.5% ABV this means that 37.5% of any given quantity of sprits is pure alcohol. Most sprits have an ABV of 37.5%.

**Wines** – when labelled as 13% ABV this means that 13% of any given quantity of wine is pure alcohol. Most wines have an ABV of between 9% and 16%.

**Low-alcohol beers and lagers** – to be classed as ‘low-alcohol’ a drink should contain no more than 1.2% ABV.

**Alcohol-free beers and lagers** – to be classed as ‘alcohol-free’ a drink should contain no more than 0.05% ABV.

### **1.2.3 How does alcohol affect us?**

Most adults in the UK drink alcohol. The moderate use of alcohol is socially accepted and legal. Drinking alcohol at home or in pubs, clubs, bars and restaurants is an accepted part of social life and is a major part of leisure activities for people in the UK.

Alcohol is absorbed into the bloodstream of the drinker and it affects the mental, emotional and physical state of the drinker, and this in turn can affect personal behaviour.

People become drunk because they drink alcohol at a faster rate than their bodies can eliminate it from their bloodstream. Most alcohol is removed through the liver, although small amounts are eliminated through breathing and urinating. It takes approximately one hour for a unit of alcohol to be eliminated from the body. Drinking coffee, or taking other products containing caffeine, may combat the sleepiness that can be a consequence of drinking too much, but it does not speed up the elimination of alcohol from the body.

### **1.2.4 Units of alcohol**

Whilst ‘ABV’ is a measurement of the amount of alcohol contained in a given drink, and therefore of the strength of that drink, ‘ABV’ doesn’t provide an easy-to-understand way of comparing the actual amount of alcohol in one drink as compared to another. To make this comparison the idea of ‘units of alcohol’ needs to be understood. A unit of alcohol is 8gm or 10ml of undiluted alcohol. Alcoholic drink products contain a mixture of alcohol and water, which increases the volume of the drink. To calculate the number of units of undiluted alcohol in a particular drink, apply the following formula:

**Volume of liquid x percentage ABV x 0.001 = units of alcohol in  
drink product**

**Examples:**

**35ml vodka x 37.5% ABV x 0.001 = 1.31 units**

**1 pint (568ml) of beer x 5% ABV x 0.001 = 2.84 units**

**135ml of wine x 13%ABv x 0.001 = 1.75 units**

## 1.2.4 Sensible drinking

Moderate drinking in appropriate circumstances presents little or no harm to the drinker and can even provide health benefits.

The following advice is based on the UK Government's sensible drinking message:

- **Men** – most men can drink up to three to four units of alcohol a day without significant risks to their health. For men aged 40 and over there is evidence that drinking one or two units a day, but no more, can reduce the risks of coronary heart disease. Men should not drink more than 21 units a week and are recommended to have two alcohol-free days per week.
- **Women** – most women can drink up to two to three units of alcohol per day without significant risks to their health. Women who are trying to conceive or who are pregnant should avoid getting drunk and are advised to consume no more than one or two units of alcohol once or twice a week. After menopause there is evidence that one or two units a day can protect against coronary heart disease. Women should drink no more than 14 units a week and are recommended to have two alcohol-free days per week.
- **Drink driving** – the limit above which it is an offence to drink and drive is 80mg of alcohol in 100ml of blood. There is no reliable method – short of a blood test – that a drinker can use to measure the amount of alcohol in their bloodstream. The only sensible thing for people to do is not to drink and drive.

## 1.3 Authorising alcohol sales

### 1.3.1 Licenses

The retail sale of alcohol is only lawful if it is licensed. In England and Wales we have a dual licensing system. A building from which alcohol is sold must have a *premises licence* that states that the retail sale of alcohol is a licensable activity to be conducted on those premises. It makes no difference whether the premises are for 'on-sales' or 'off-sales'. Sales of alcohol from a building with a premises licence are lawful only if they are authorised by the holder of a *personal licence*.

### 1.3.2 Authorising bar and counter staff to make alcohol sales

Under the licensing Act 2003 all sales of alcohol from a building with a premises licence must either be made or be authorised by a personal licence holder. There may be any number of personal licence holders working in a premises but only one

Designated Premises Supervisor (DPS). The DPS will be the person in day-to-day control of the premises and all other personal licence holders working on the premises will be working under his or her control.

- As bar or counter staff, if the premises in which you work sells alcohol, even if alcohol sales are a very small part of the sales mix, you must have the authorisation of a personal licence holder for any alcohol sales you make to be lawful.
- You must therefore make sure you personally are authorised by a personal licence holder to make sales of alcohol – particularly in circumstances where a personal licence holder may not be on the premises all the time it is open for the sale of alcohol.
- A member of staff under the age of 18 may sell or supply alcohol only if each sale or supply is specially approved by the premises licence holder, the DPS or another person over the age of 18 authorised to give such approval by the premises licence holder or DPS.
- Staff members under 18 are not committing an offence if they sell or deliver alcohol for consumption with a table meal. Typically this would include someone working as a waiter or waitress.

### **1.3.3 The four licensing objectives**

The licensing Act 2003 is underpinned by some basic principles known as the ‘licensing objectives’. There are four of these and they are:

- 1. The prevention of crime and disorder**
- 2. Public safety**
- 3. The prevention of public nuisance**
- 4. The protection of children from harm**

The licensing objectives are all of equal importance and the promotion of these objectives is the main purpose of the licensing Act 2003. In addition, if licensed premises are operated in such a way as to undermine any of these objectives, then the police or trading standards officers could apply to the licensing authority to review the premises licence. Making underage sales of alcohol, or selling alcohol to drunks, could certainly undermine the protection of children from harm objective

and possibly any or all of the other three objectives – because drunkenness and underage drinking fuel crime and disorder.

It is therefore very important that sales staff refuse service to underage drinkers and to drunks.

## **1.4 The law relating to underage sales and servicing drunks**

### **1.4.1 Sale of alcohol to children**

It is illegal for:

- Sales staff to sell or supply alcohol to anyone under 18. It is also an offence to knowingly allow the sale of alcohol to someone under 18. This applies not just to premises or personal licence holders but to bar and counter staff as well – because they have the capacity to prevent the sale.
- Anyone under 18 to buy or attempt to buy alcohol
- Anyone over 18 to buy or attempt to buy alcohol on behalf of someone under the age of 18
- Children under 18 to consume alcohol in licensed premises, or for a member of staff to allow them to do so
- Unaccompanied children, under the age of 16, to enter licensed premises where alcohol is sold for consumption on the premises, e.g. pubs, clubs and bars
- Unaccompanied children under 16 to be on premises licensed to sell alcohol for consumption on the premises between midnight and 5.00 a.m., when those premises are open, e.g. nightclubs and late-night bars

If a member of the sales staff sells alcohol to someone under the age of 18 they commit an offence. If a member of staff, or anyone else in a position to prevent such sales, knowingly allows the sale, delivery or consumption of alcohol to under – 18s, or to someone over 18 attempting to purchase alcohol for them, then likewise, they are committing an offence and can be prosecuted.

### **1.4.2 Exceptions to laws in relation to selling alcohol to underage children**

It is *not* illegal for:

- A 16 or 17 year old to consume beer, wine or cider with a table meal, provide that an adult buys it for them and accompanies them at the meal
- A child under 18 to carry out a test purchase of alcohol when supervised by police or trading standards officers for the purposes of enforcing the laws on underage drinking.

### **1.4.3 Sale of alcohol and drunks**

It is illegal for sales staff to:

- Sell alcohol to a person who is drunk
- Sell alcohol to someone in the company of a drunk who is buying the alcohol for consumption by the drunken person
- Knowingly allow alcohol to be sold to someone who is drunk

### **1.4.4 Fixed penalty notices**

Fixed penalty notices have been introduced to deal with a number of ‘low-level’ public order and alcohol-related offences. These measures enable the police to quickly dispose of offences that in the past have resulted in prosecutions and court appearances. They operate in a similar way to parking tickets and offer the opportunity to pay a fixed penalty fine and to discharge prosecution and criminal liability for an offence.

- The police may issue a fixed penalty notice to a member of the sales staff if they are detected selling alcohol to underage children. These notices are most likely to follow a test purchase involving the police or trading officers sending in an underage child to attempt a purchase of alcohol.
- The police may issue a fixed penalty notice to sales staff if they are detected selling alcohol to a customer who is drunk. This is most likely to follow from the observation of an undercover police officer who observes sales staff serving a drunk.
- If a member of the sales staff refuses to accept a fixed penalty notice then prosecution can follow. Staff should be aware that if they decide to challenge



a police officer's assertion that they have served a drunk, that the courts will regard a police officer as an expert witness for the purpose of determining whether someone is drunk.

### **1.4.5 Fixed penalty fines**

The current level of fines levied on sales staff, under fixed penalty notices, is as follows:

- **£80.00** – for serving alcohol to a child
- **£80.00** – for serving alcohol to a drunk

Fixed penalty notices may also be issued to children under the following circumstances:

- **£50.00** – for a child aged 16 or 17 if they are caught buying alcohol
- **£30.00** – for a child under 16 if they are caught buying alcohol

## **1.5 The law relating to other age-restricted products**

### **1.5.1 Supply (sale or hire) of specific products to person under certain ages**

In addition to restricting the sale of alcohol, the law prohibits the supply (sale or hire) of a range of other products to persons under certain ages. Some of these products may be sold in premises that also sell alcohol, some may not.

### **1.5.2 Products that may be supplied only to persons aged 18 and over**

1. Tobacco products
2. 'Adult' fireworks
2. DVDs, videos, video games: classification 18
3. Volatile substances and solvent-based products – if it is believed that they may be inhaled for the purposes of becoming intoxicated
4. Lighter fuel containing butane

### **1.5.3 Products that may be supplied only to persons aged 17 and over**

1. Crossbows
2. Airguns and pellets  
(*Age restriction soon to be raised to 18 years old*)

### 1.5.4 Products that may be supplied only to persons aged 16 and over

1. Petrol
2. Offensive weapons / knives  
(*Age restriction soon to be raised to 18 years old*)
3. Caps, cracker snaps, novelty matches, party poppers, serpents and throw downs
4. Lottery tickets and the instant win cards
5. Aerosol paint

### 1.5.5 Products that may be supplied only to persons aged 15 and over

1. DVDs, videos, video and computer games: classification 15

### 1.5.6 Products that may be supplied only to persons aged 12 and over

1. DVDs, videos, video and computer games: classification 12

### 1.5.7 Further information on tobacco sales

**Tobacco products** - includes cigarettes, tobacco in any form, snuff or cigarette papers – none of these can be sold to someone under 18, even if they are not intended for the purchaser's personal use.

**Warning notices** - sales staff should be aware that the following warning notices must be exhibited in a prominent position that is clearly visible to anyone purchasing cigarettes, at any premises from which tobacco is sold:

**Error! Reference source not found.**

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

The above notice must be  
less than 36 mm in

(A3), with no character

On a cigarette vending machine:

**THIS MACHINE IS ONLY  
FOR THE USE OF  
PEOPLE AGED 18 OR  
OVER**

The above notice must be not less than 60 mm x 100 mm, with the characters no less than 6 mm in height. The vending machine notice must be clearly visible to anyone using the machine.

If these warning notices are absent, defaced or not clearly visible then sales staff should inform their manager immediately.

### **1.5.8 Further information on selling fireworks**

**Different laws regulate ‘adult firework’ sales and the sales of ‘similar products’** – the law distinguishes between fireworks – ‘adult fireworks’ – the sale of which is regulated by The Fireworks (Safety) Regulations 1997 (as amended), and the sale of ‘similar products’ – such as caps, cracker snaps, novelty matches, party poppers, serpents and throw downs – the sale of which is regulated by the Explosives Act 1875 (as amended). This explains why fireworks may be sold to those aged 18 or over only, and the other products listed may be sold to those aged 16 or over.

**Warning notices** - The Firework Regulations 2004 require that where adult fireworks are supplied in any premises a notice is displayed in a prominent position in those premises:

**IT IS ILLEGAL TO SELL  
ADULT FIREWORKS TO  
ANYONE UNDER THE  
AGE OF 18**

The notice must be no less than 400 mm x 300 mm, with letters no less than 16 mm in height.

The following notice must also be displayed:

**IT IS ILLEGAL FOR ANYONE  
UNDER THE AGE OF 18 TO  
POSSESS ADULT**

**FIREWORKS IN A PUBLIC  
PLACE**

This notice must also be no less than 400 mm x 300 mm with the letters at least 16mm in height.

### **1.5.9 Further information on selling offensive weapons and knives**

‘Offensive weapons and knives’ include:

- Any knife, knife blade or razor blade
- Any axe
- Any other article that has a blade or sharp point, and that is made or adapted for the purpose of causing personal injury

Examples of knives that it would be an offence for sales staff to sell to persons under the age of 16 would include:

- Combat knives, such as sheath knives or bladed martial arts weapons
- Kitchen knives
- Craft knives

**NB: the minimum age for buying knives is 18 years.**

It is *not* an offence to sell the following products to persons under 16:

- Folding pocket knives if the cutting edge of the knife is less than 3 inches or 7.62cm
- Replacement cartridges for the safety razors provided less than 2mm of the blade is exposed.

### **1.5.10 Further information on selling or hiring recordings**

Below is a table showing the age classification in respect of the sale or supply of recordings:

<b>SYMBOL</b>	<b>CLASSIFICATION</b>	<b>MINIMUM AGE REQUIREMENT</b>
U	Universal – suitable for all	Unrestricted
Uc	Universal – particularly suitable for children	Unrestricted
PG	Suitable for general viewing but some scenes may not be suitable for children	Unrestricted – but staff may wish to consult a parent
12	Suitable for persons aged 12 and over	12 and over
15	Suitable for persons aged 15 and over	15 and over
18	Suitable for persons aged 18 and over	18 and over
R18	‘Restricted 18’ – suitable for persons aged 18 and over in a licensed sex shop	18 and over

### **Exemptions**

Works in categories that are solely designed to inform, educate or instruct or other works that concern only sport, religion or music and comprise only video game are exempt from classification – provided they do not contain scenes of a violent or sexual nature. Some producers of videos and DVDs label exempt products with an ‘E’, but this is not a legal requirement.

## **1.6 Summary of age-restricted products and penalties for unlawful supply**

### 1.6.1 Guidance table

<b>PRODUCT</b>	<b>MINIMUM AGE</b>	<b>MAXIMUM PENALTY (<i>fine and / or prison</i>)</b>
Videos, DVDs etc	Classification 12 years	£5000 & up to 6 months in prison
Videos, DVDs etc	Classification 15 years	£5000 & up to 6 months in prison
Videos, DVDs etc	Classification 18 years	£5000 & up to 6 months in prison
Tobacco products	18 years	£2500
Aerosol paint	16 years	£2500
Caps, cracker snaps etc	16 years	£5000 & 6 months
Offensive weapons / knives	18 years	£5000 & 6 months
Lottery tickets / instant win	16 years	£5000 & 2 years
Petrol	16 years to dispense petrol	£5000
Liqueur chocolates	16 years	£500
Crossbows	17 years ( <i>may change to 18</i> )	£5000 & 6 months
Airguns and pellets	17 years ( <i>may change to 18</i> )	£5000 & 6 months
Alcohol	18 years	£80 fixed penalty Or: £5000 if convicted by court
Lighter refills containing butane	18 years	£5000 & 6 months
Volatile substances / Solvents	18 years	£5000 & 6 months
Fireworks	18 years	£5000 & 6 months

## Unit 2:

# Preventing Unlawful Sales

## 2.1 Refusing service to persons intoxicated by alcohol

### 2.1.1 Getting intoxicated (drunk)

People get drunk when they drink alcohol faster than their body can remove it from their blood stream. Even small amounts of alcohol can cause intoxication (drunkenness), and there are various levels of intoxication. Drinkers develop a tolerance to their effects of alcohol over time. This means that experienced drinkers do not exhibit the visible signs of intoxication when they have only consumed small amounts of alcohol.

The law is clear: staff must refuse service to anyone who is drunk.

The following is an approximate guide to the levels of alcoholic intoxication:

**Level 1, 1-3 units** – drinkers become more active, feel alert, cheerful. Many people find it easier to socialise and talk to others. The pulse rate and breathing get faster, and the veins widen.

**Level 2, 4-7 units** – the alert and relaxed state continues, but judging situations becomes more difficult. Everyday actions seem to become easier, but more mistakes are made, as reaction times are longer, and the angle of vision begins to decrease.

**Level 3, 8-10 units**- drinkers become careless. They do things they would not normally do when sober. Cheerfulness can turn to depression and they find it more difficult to control aggression – leading to an increased tendency to get into brawls and fights.

**Level 4, over 10 units** – motions and movements become awkward and in some people increasingly violent. Seeing, walking becomes more difficult. Drinkers do things they cannot remember afterwards. Stupor and unconsciousness can result from this level of intoxication.

### 2.1.2 Problem drinking

How people drink – the pattern of their drinking behaviour – can give rise to particular concern. Two patterns of drinking that are likely to harm people are:

**Binge drinking** – this is a pattern of drinking that is closely associated with the night- time economy of town and city centres. Young drinkers in particular are associated with a culture of drinking to get drunk that is characterised by the speed-drinking of high volume of strong alcoholic drinks.

**Chronic drinking-** this is a pattern of drinking that is characterised by regular heavy drinking bouts, drinking alone and the need to be intoxicated for much of the time. The term ‘alcoholism’ has been applied to this pattern of drinking in the past, but experts now prefer the term ‘chronic drinking’.

### **2.1.3 Recognising the signs of drunkenness**

Sales staff have a duty not to serve alcohol to drunks. The early signs of intoxication may be difficult to spot (Level 1 and 2), but the later stages of intoxication can be obvious (Level 3 and 4), and the staff members need to be able to recognise the signs that drinkers may have reached these levels of intoxication.

Signs of drunkenness include:

- Slurred speech
- Speaking too loud
- Speaking too fast
- Loss of physical co-ordination
- Knocking things over / bumping into furniture
- Staggering, weaving or falling over
- Glazed eyes and / or small pupils
- Heavy sweating
- Vomiting
- Slow or irregular breathing
- Sleepiness or unconsciousness

### **2.1.4 Spotting problem groups**



In on-sales premises, such as pubs and bars staff should be able to spot patterns of group behaviour that need to be monitored.

Examples include:

- Hen nights
- Stag nights
- Birthday parties
- Football fans celebrating match results

Spotting these groups and monitoring their behaviour will enable staff to observe whether irresponsible drinking is taking place, and then to refuse service.

Irresponsible drinking behaviour includes:

- Deliberate speed drinking
- Drinking competitions
- Plying a member of group with strong drinks to get them drunk (e.g. birthday parties, stag and hen nights)
- Requesting unusual alcoholic cocktails, not on the menu, containing absurdly large numbers of different spirits mixes

Service refusals for drunkenness should be recorded, along with service refusals for underage drinking.

## **2.2 Refusing service of alcohol to underage persons**

### **2.2.1 Asking for identification**

In order to establish whether a customer is old enough to lawfully buy alcohol (18 years old), sales staff should ask for proof of identification. Deciding who to ask is sometimes difficult because physically mature children often look 18 when they are in fact much younger.

Erring on the side of caution is the best way for sales to make sure that they don't serve alcohol to under-18's. Local trading standards departments have launched the 'Challenge 25' campaign.

*'Think 25'* – Sales staff and managers should support the principle of 'Challenge 25'. This means asking anyone who looks younger than 25 years old to prove that they are at least 18 years old.

If sales staff think that a customer looks under 25 years old they should politely ask them for proof of age.

### **Examples of how you might phrase the question:**

“Our policy is to ask for proof of age for anyone who looks under 25 years old. Do you have a proof of age card, a photo driving licence or passport?”

“I need to see some ID before I can serve you with alcohol.” And then go on to explain what ID is acceptable.

Humour can be used to disarm hostility, and so a third way of phrasing the question might be:

“If you are lucky enough to look under 25 – and you do – then we have to ask for proof that you are over 18.” And then go on to list the forms of identification that are acceptable.

### **2.2.2 Refusing service**

If the customer does not have acceptable proof of age then you must refuse service. If you suspect a ‘proxy sale’ – i.e. purchase of alcohol by an adult on behalf of a child – you should refuse service.

Some examples:

“I’m sorry Sir / Madam, but I can’t serve you today unless you can come back with some ID.” And then repeat the forms of identification that you will accept.

“I’m sorry Sir/ Madam, but I am concerned that you may be purchasing this alcohol for an underage person and I’m afraid I can’t serve you.”

The ‘Challenge 25’ campaign materials include leaflets and posters that should be displayed around the premises. Staff can point to these materials when asking for ID or refusing service.

### **2.2.3 Proof of age**

Acceptable identification and proof of age include:

- Passport

- Photo driving licence
- Recognised proof age card incorporating the PASS logo

Cards incorporating the PASS (Proof of Age Standards Scheme) logo include:

- Citizen Card 16/17



- Connexions card



- Portman Group card



- Validate UK card



- Young Scot card



Any card incorporating the PASS logo should be accepted as a valid photo- ID and proof of age.

## 2.2.4 Checking ID

When an acceptable photo-ID proving the age of the customer is produced staff need to do the following:

- Compare the photograph with the person's face. Look carefully, don't just glance
- Check the date of birth
- Check the ID is current
- Check that the card has not been tampered with and that it is not a crude forgery

If after having seen the ID produced, a member of staff still has some doubts about the age of the person, then service must be refused.

## 2.3 Refusing service of other age-restricted products

### 2.3.1 Knowing the product range and further information

**Alcohol** is the most well known age-restricted product and virtually everyone knows that a customer must be at least 18 years old to buy it. Many people do not know the full range of other products that are age-restricted, or, if they do, what the minimum age for purchasing a product might be. It may well be that underage customers for age-restricted products other than alcohol are attempting to buy without any deliberate intention of breaking the law.

**Volatile substance and solvent-based products** - These products are age-restricted because of the danger of solvent abuse. Solvent abuse is the inhaling of fumes given off by a wide range of solvent based products. The supply of such products is controlled by two pieces of legislation:

**The Cigarette Lighter Refill (Safety) Regulation 1999** – makes it an offence to supply or offer to supply any cigarette lighter refill canister containing butane or a substance containing butane as a constituent to any person under 18.

**The Intoxicating Substances (Supply) Act 1985** -makes it an offence to supply or offer to supply an intoxicating substance to a person you know, or have reasonable cause to believe is under 18, if you know or have reasonable cause to believe that person is going to use the substance in order to get intoxicated. An offence is also committed if you supply or offer to supply an intoxicating substance to someone you know or have reasonable cause to believe is purchasing the substance on behalf of someone who will use it to get intoxicated. This is sometimes called a 'proxy purchase'.

'Intoxicating substances' that are sometimes abused include:

- Solvent based glue
- Dry cleaning fluid
- Correction fluid and thinner
- Marker pens
- Aerosols (e.g. air freshener, hair spray, deodorant)
- 'Cold Start' and Antifreeze
- Nail varnish and varnish remover

### **How sales staff can recognise an abuser:**

If you think someone is a solvent abuser you should not serve them.

Signs of abuse include:

- Slurred speech and behaviour
- Spots and sores around the mouth
- The smell of glue or solvents on the person's clothes

### **Your suspicions should be aroused if someone:**

- Is a frequent buyer of solvents
- Buys large quantities
- Purchases solvents and plastic bags at the same time

### **What sales staff can do**

It is therefore important that bar or counter staff and managers know their product range and have identified which products are age-restricted. It is equally important that staff know the age restrictions for each of those products.

Specific things that sales staff must do to prevent underage sales include:

- Refusing to sell cigarette lighter refills to anyone under 18
- Refusing to sell solvents to someone under 18 if they cannot give you a proper reason for buying the product
- Ensuring that solvent based products are kept either close to or behind the counter
- Keeping dummy displays of these products so that customers have to ask them
- Displaying posters showing age limits and refusal to serve policy

### **Petrol sales**

The minimum age that must have been reached to manage a petrol station is 18 years. To dispense petrol, as an employee of a petrol station, the minimum age is 16 years. A person under 16 who is not an employee of a petrol station may purchase petrol and it is not illegal for them to dispense it. However, the Health and Safety Executive guidance is that they must be closely supervised by an adult if they do. Allowing an employee under 16 to dispense petrol carries a maximum fine of £5000.

### **2.3.2 Asking for identification and proof of age for other age-restricted products**

The process of asking for ID and proof of age is the same for non-alcoholic as for alcoholic age-restricted products. However, judging the age of customers between 12 and 17 is very difficult. If staff members have any doubt about the age of a young person who is attempting to purchase any product to which an age restriction applies, then ID should be requested. The same ID cards can be accepted as for alcohol sales.

Consult your poster chart of age-restricted products to check the minimum age that the customer must have attained, then carry out the following procedure:

- Explain to the customer that this is a procedure to which an age-restriction applies
- Ask them for their age *and* date of birth
- Then ask them for a proof of age-accepting only those proofs outlined in this handbook

## **2.4 Standing your ground and seeking support**

### **2.4.1 Dealing with threatening and abusive responses**

Refusing service to a customer – particularly a young customer – can sometimes make the person feel humiliated or embarrassed; this in turn can lead the customer to become threatening, abusive, or, in rare cases, physically violent. In order to reduce the chances of this happening there are some basic procedures that should be followed when refusing service:

- Depersonalise the refusal to serve – emphasising your company policy and your professional and legal responsibilities
- Avoid refusing service in front of other customers – particularly friends of the young person you are refusing service to
- Detach troublemakers from groups – if a young person becomes abusive or threatening take them away from the audience
- Provide face-savers “It’s not *you* that’s the problem, it’s the fact that you can’t prove your age” and give them an application form for the proof of age card such as Citizen Card
- Avoid ‘point scoring’ exchanges – they may well make the customer more angry

### **2.4.2 Seeking support**

If threatening or abusive behaviour occurs as a result of refusing service you should:

- Stand your ground – do not give in and serve the customer
- Ask for help and support of a colleague
- Make sure that there is a physical barrier between you and the customer – the bar or counter
- Seek the assistance of the police if threats or abuse persists and the customer refuses to leave

## 2.5 Record keeping

### 2.5.1 Recording admission and service refusals

Staff should record all admission or service refusals on a simple logbook that should be available behind the bar or counter. If door staff are employed on the premises, a similar logbook should be available for their use.

Below is an example of an admission / service refusals logbook that you may replicate if your premises do not already have one:

Admission / service refusal	Product refused	Reason	Gender	Date / Time	Staff Signature
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**Error! Reference source not found.**

**Key: M / F** – male or female

**D / D** – drunk or disorderly

**U / A** – underage

**Dr** – under the influence of drugs

Recording admission or service refusals demonstrates due diligence on behalf of the member of staff concerned and indicates that the premises is well run. In the event of a premises licence review the admission / service refusals log is evidence that the premises staff are making an effort to refuse under age sales.

## 2.6 Management Control System

The purpose of our Management Control System is to ensure that this store's policies and procedures are monitored regularly to ensure compliance with the relevant law.

The following will be checked and recorded at the intervals stated:

1. That all Staff are properly trained in:

- The law relating to sale of age restricted products,
- This store's "Challenge 25" policy
- Valid and acceptable forms of ID,

before starting their employment. Thereafter staff will be reminded and updated every 3 months and this will be recorded by management and signed by staff.

2. That "Challenge 25" posters to let customers know in advance that we won't sell restricted products to persons appearing to be under 25, unless they can prove that they are at least 18, are clearly displayed at all times. Posters will be checked every 3 months for visibility, wear and tear etc. and replaced where necessary.

3. A Challenge Register comprising record of all age checks and refused sales will be kept on an ongoing basis and will be reviewed and signed by management at the end of every month.

### **Appendix A – Standard Scale of Fines**

The Criminal Justice Act 1982, as amended by the 1991 Act, sets out the standards scale of maximum fines upon conviction of a summary offence:



LEVEL 1	£250
LEVEL 2	£500
LEVEL 3	£1,000
LEVEL 4	£2,500
LEVEL 5	£5,000

## SALE OF AGE RESTRICTED PRODUCTS - THE LAW

Shop Managers are responsible for ensuring that adequate training is given to sales staff **BEFORE** they sell any of these items for the first time. Company Policy may dictate a higher age limit. **STAFF MAY FACE PERSONAL PROSECUTION OR INTERNAL DISCIPLINARY ACTION OF THEY FAIL TO OBSERVE THE FOLLOWING INSTRUCTIONS.** Where the law allows age restricted products to be sold by sales assistants who are themselves under age **then strict supervision at all times by an adult is vital. IF IN DOUBT DO NOT SELL.**

### IT IS ILLEGAL TO SELL:

<p><b>25</b> <b>Company Policy</b></p>	<p><b>ALCOHOL</b></p> <p>To anyone under 18 or to purchase alcohol if you are under 18. Licensees, cashiers and buyers could all be prosecuted. <b><u>It is Company policy that people who appear to be under 25 will be asked for proof of age showing them to be over 18.</u></b></p> <p>It is illegal for a trader to sell to someone they suspect is making a purchase for an under-age person.</p> <p><b>FIREWORKS</b></p> <p>To anyone ‘apparently’ under 18. The only exceptions are those items classified as suitable for persons 16 and over. <b><u>It is Company policy that people who appear to be under 25 will be asked for proof of age showing them to be over 18.</u></b></p>
<p><b>18</b></p>	<p><b>INTOXICATING SUBSTANCES (SOLVENTS)</b></p> <p>To anyone under 18, or a person acting on behalf of someone under 18, if the trader knows or has reasonable cause to believe that the substances, or its fumes, is likely to be inhaled by the person to achieve intoxication.</p> <p>Solvents include: butane gas, lighter fuel/fluid, solvent based glues and adhesives, aerosols, nail varnish remover, anti-freeze and typewriter correction fluid.</p> <p><b>It is illegal to sell any cigarette lighter refill canister containing butane or a substance with butane as a constituent part to any person under 18.</b></p>

<p><b>18</b></p>	<p><b>VIDEO RECORDINGS</b></p> <p>To a person who has not attained the age of 18, an 18 rated film.</p> <p><b>OFFENSIVE WEAPONS</b></p> <p>To a person under 18.- includes knives, blades and similar items</p>
<p><b>18</b></p>	<p><b>CIGARETTES AND TOBACCO</b></p> <p>To a person under 18.</p> <p>Retailers must display notices to this effect.</p> <p>Cigarettes must be sold in their original packaging and must not be split and sold as a separate item.</p>
<p><b>16</b></p>	<p><b>CAPS AND PARTY POPPERS</b></p> <p>To a person under 16.</p> <p>Fireworks must be sold in their original packaging which includes warnings, and should not be split into single items.</p> <p><b>LIQUOR CHOCOLATES</b></p> <p>To anyone under 16.</p> <p><b>LOTTERY TICKETS AND SCRATCH CARDS</b></p> <p>To a person under 16. National Lottery retailers must display notices to this effect.</p> <p>Anyone who sells Lottery Tickets must be over 16.</p>
<p><b>15</b></p>	<p><b>VIDEO RECORDINGS</b></p> <p>To a person who has not attained the age 15 and 15 rated film.</p>
<p><b>12</b></p>	<p><b>VIDEO RECORDINGS</b></p> <p>To a person who has not attained the age 12 to a 12 rated film.</p>

**BEST ONE**

**IMPORTANT INSTRUCTION**

**OPERATING PROCEDURES (ALL STAFF TO READ)**

It is illegal to sell alcoholic drinks to young people under the age of 18 (Company Policy 25). As such, it is the responsibility of all staff to make sure that this does not take place.

You must therefore, ensure that you do not sell alcoholic drinks to any person who appears to be under 25. You must assess the age of each customer before selling alcohol and ask for proof of age if they appear to be under 25 years old. If in doubt you must seek assistance from your Manager who will support you.

You may be required to explain to an underage customer that it is illegal to sell drinks to them. When this arises you must refuse the sale politely and firmly, but at the same time explain why. If there is any doubt at all you must refuse the sale and record this in the Challenge Register. If the customer becomes angry, remain calm and firm - remember, if you need assistance, call your Manager. To prevent pilferage, constant vigilance is necessary in those parts of the store in which wines, beers and spirits are displayed.

Signed	Print Name	Date	Position

Note: Two copies to be signed – one for the staff member and one to be filed in the premises manual

**BEST ONE**

**IMPORTANT INSTRUCTION**

**THE LAWS AND REGULATIONS COVERING THE SALE OF ALCOHOLIC DRINKS**

**THE TEN GOLDEN RULES**

- 1(a) Young persons under the age of 18 (Company Policy, 25) must not be permitted to buy alcoholic drinks.
- 1(b) Young persons under 18 must not be permitted to sell alcohol without direct supervision by a senior member of staff who must be over 18.
2. Persons who are under the influence of drink must not be sold alcoholic drinks.
3. A Police Officer in uniform must not be sold alcoholic drinks.
4. You must not allow people to drink on or outside the premises.
5. You must ensure that the 25 year old prohibitive sign and the trading hours are prominently displayed.
6. Be very aware of persons over 18 who try to buy for under 18's and refuse such sale and record in the refusal book.
7. Be vigilant, constant supervision of the drinks area is not only necessary to deter pilferage, but to prevent under 18's trying to select alcohol.
8. Before each transaction identify the customer. If in doubt ask for proof of age.  
For this you can accept:-
  - a) a Recognised proof of age card with the PASS logo which include the Bite, Portman Group, Citizen, Connexions, Validate, Young Scot etc. identity cards, showing photo, date of birth and signature.
  - c) a Current Passport
  - d) the new style Driving Licence with photo

**THE OLD STYLE DRIVING LICENCE WITHOUT A PHOTO IS NOT ACCEPTABLE**

**THE MAXIM YOU MUST FOLLOW IS:-**

9. If in doubt do not make the sale. You have the right of refusal which will be backed up by the Manager and the Company. If a refusal is actioned, record the details in the refusal book e.g. male/female, date, time, reason – underage, drunk abusive.

10. Be aware of the licensing hours and ensure that the blinds are down or tensor barriers in place to prevent access to alcohol displays outside of permitted alcohol trading hours and that no sale takes place outside these hours.

For signature:-

I have read and fully understand my responsibility in ensuring that I conform with the laws and regulations covering the sale of alcohol.

Signed	Print Name	Date	Position

NOTE

Two copies to be signed – One for the staff member and one to be filed in the premises manual