

**UPDATE ON THE PROOF OF AGE IDENTITY CARD AND TRADING
STANDARDS PERSPECTIVE**

Prior to the Licensing Act 2003, Trading Standards had a number of enforcement responsibilities on licensed premises, including:

- Weights and Measures controls on quantities of alcoholic drinks sold – there are specified quantities for the sale many products such as beer and wine.
- Weights and Measures controls to detect and prevent short measures being sold
- Weights and Measures controls on the accuracy of equipment used to measure drinks, such as glasses, thimble measures, beer measuring instruments.
- Detection of product substitution, particularly with spirits, where lower quality products are passed off as brand name items.
- Detection of counterfeit alcohol products (for example, counterfeit vodka based on methanol, counterfeit cigarettes)
- Detection of product adulteration (eg watered beer or spirits)
- Enforcement of price display legislation
- Enforcement of food labelling and compositional requirements

Enforcement of under-age requirements was generally confined to tobacco products and cigarette vending machines.

Alcohol test purchasing was not undertaken because the legislation was such that the purchaser would commit an offence if there was a sale.

The Licensing Act 2003 removed this difficulty, enabling alcohol test purchasing to take place under the direction of a Weights & Measures Inspector (Trading Standards Officer). Test purchasing is a closely regulated exercise, operated in accordance with a detailed Home Office Code of Conduct. All participants are volunteers, and their welfare and safety is the highest operational priority. Generally there are greater Health & Safety concerns about using young test-purchasers in on-licence premises than off-licences.

Apart from this legislative and operational change, there have been two main impacts of the Act on Trading Standards.

- Firstly Trading Standards was designated as a responsible authority, which gives us the opportunity to see specified classes of licence applications and to have an input if we feel that the applicant isn't doing enough to satisfy the licensing objectives that relate to the protection of young people from harm and the prevention of crime. In general that has meant challenging applicants on their policies and procedures related to age-restricted access to alcohol. Many such challenges were made in the period leading up to licensing, resulting in improvements to practices and procedures across the MK area.
- The second impact has been on the extent of multi-agency partnership working, both operational and intelligence-sharing that has developed. Trading Standards participated in Operation Hangover in the run up to Christmas. Our focus was on under-age sales, with test purchasing directed at off-licence premises and a collaboration with the police directed at on-licence establishments. The programme has continued in the new year and has proved to be so successful that it is likely to be ongoing.

Where sales are detected, Trading Standards can take legal action and in appropriate circumstances the police can issue Fixed Penalty notices.

The main issues arising from age-restricted enforcement of alcohol are:

- Test purchasing is a resource intensive operation that doesn't always yield results. For example, some retailers will only sell to young people they know, when intimidated or when the purchaser lies about their age, and test-purchasing doesn't help in these circumstances.
- We are beginning to use other methods, eg CCTV, against persistent offenders.
- The Code is restrictive about the age of the volunteer relative to the age-limit. For alcohol they can be no more than 16½ yrs old and sometimes this isn't a realistic scenario.
- There is a fine line between test-purchasing and entrapment
- Judging the apparent age of young people is not easy and is open to vigorous challenge by the defence if legal proceedings take place later.
- We are still developing a protocol with TVP on the use of fixed penalties.
- Our recent experience also indicates that under-age purchasing of alcohol (and many other age-restricted products) via the Internet is a real problem and needs tackling.

While we will continue to refine our enforcement practices in this area, a significant step forward would be the establishment of a consistent, secure and accredited proof-of-age card across MK. Trading Standards has been pressing for this for some years but with limited effect.

There is a variety of schemes such as CitizenCard (all ages/products), the Portman Group (alcohol) and Connexions (mainly educational) that can be

implemented in partnership with the Local Authority or the Authority could develop its own. If a consistent scheme was established it would support retailers who want to comply with the legislation, would enable the Council as the Licensing Authority to throw its weight behind a 'no ID no Sale' policy for the licensed trade and other sectors, and would be welcomed by the industry as well young people who actually meet the relevant age criteria.

In addition some schemes, including CitizenCard offer an online proof-of-age scheme to facilitate Internet purchasing

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Update 3 July 2006

A recent round of under-age test purchasing has resulted in 3 sales of alcohol to 16 yr old volunteers. Fixed penalty notices were issued by police in 2 cases of alcohol sales, (currently Trading Standards cannot currently issue FPN's although this is under review). It is doubtful whether formal enforcement action can be taken in the remaining case for legal reasons.

Joint operations with Thames Valley police into under-age alcohol sale and use have been very successful and will be continued at on-licence premises. Currently this is managed without the use of under-age volunteers.

Trading Standards is set to continue with test purchasing at off-licence premises as part of the strategy to enforce the legislation and to uphold the Licensing Objectives of protecting children from harm and preventing crime and disorder.

The test purchasing programme will also cover other age-restricted products, including knives, solvents, spray paints, fireworks, videos, DVDs, computer software and tobacco products. Trading Standards will be working closely with the smoke-free officer in respect of tobacco and vending machine sales on licensed premises, in anticipation of new legislation on smoke-free environments.

Cutting across all this work is a common theme of proof-of-age. A breakthrough has been achieved in the last month in that the Radcliffe School, Wolverton asked to be a pilot for CitizenCard. This is being implemented, and started with issuing cards to 200 yr10 pupils in June. Other schools are now expressing an interest in following suit and we hope this will give momentum towards an eventual rollout across the Borough. Trading Standards will be encouraging this through Head Teachers' Forum and with the support of the Corporate Director (L&D) and the Cabinet Member for Children.

Also since this report was drafted, the Connexions Card scheme has announced it is ceasing operations early in 2007.

There are some practical steps the Council could take to assist in this area and to help sustain the momentum achieved recently:

- Declare its support for the implementation of a single PASS-accredited proof-of-age card across Milton Keynes*
- Endorse CitizenCard as the preferred supplier*

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