

# **Supporting Businesses and Communities**

## **Age Restricted Goods Enforcement Policy**

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### **1. Introduction**

- 1.1. This document details Cambridgeshire County Council's Policy relating to the supply of age-restricted goods. This policy, and any actions taken under it, is subject to the County Council's overarching Enforcement Policy.
- 1.2. The County Council is committed to protecting the young, and society in general, from the harms associated with the misuse of age-restricted goods such as poor health, crime and anti-social behaviour.
- 1.3. The County Council's Trading Standards officers work with businesses to minimise such harm by using a range of activities to reduce the likelihood of sales of age restricted products to someone under the age restriction for that product. The Council's officers also undertake a range of educational activities targeting potential underage users of these products.
- 1.4. Officers can only deliver effective relief from the harm caused by the misuse of age restricted products by working in partnership with other agencies. These agencies include the Police, Health Authorities and Educational establishments. Officers also strive to establish partnerships and good relationships with businesses.
- 1.5. Officers will comply with the basic principles and procedures of the published codes of practice by BIS (Better Regulation Delivery Office) 'Age Restricted Products and Services: a Code of Practice for Regulatory Delivery' ("BIS Code of Practice").<sup>1</sup>
- 1.6. This policy will be owned by the Head of Service for Supporting Businesses and Communities on behalf of the County Council and will be reviewed

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<sup>1</sup> [BIS Code of Practice](#)

annually. Any major amendments will be presented to the Highways and Community Infrastructure Committee for approval.

## **2. Test Purchasing**

2.1. Premises to be subject to test purchasing will satisfy one or more of the following:

a) A complaint or intelligence has been received about underage sales taking place at the premises.

b) The premises are located in an area or location for which there is intelligence about underage consumption or use of age restricted products.

c) The premises trades in particular goods that intelligence has been received about.

d) There is a known history of underage sales at the premises.

e) Other criminal offences have taken place at the premises, e.g. illicit goods for sale, sales to intoxicated persons etc.

f) The premises is located in an area where intelligence gathering is considered necessary.

2.2 In most circumstances test purchasing will not take place until the businesses has received Challenge 25 training materials.

2.3 If any of the criteria in 2.1 above are satisfied and Challenge 25 training materials have not been provided to the business then authorisation from the Head of Service, an Operations Manager or a suitably qualified Lead Officer is required and the reason for that authorisation will be recorded against the premises.

## **3. Use of Child Volunteers in Test Purchase Exercises**

3.1. The County Council's Supporting Businesses and Communities Service continually reviews its usage of child volunteers in test purchase exercises and follows the guidelines detailed within the BIS Code of Practice.

3.2. The County Council believes that the use of child volunteers in such exercises is a valuable tool in delivering the aims of this policy and will therefore continue to use child volunteers subject to the provisions of this policy.

3.3. In using child volunteers the prime concern for the County Council is to ensure the health and safety of the child. All child volunteers will always be in the presence of an appropriate officer throughout an operation, who would step in to deal with any potential issues.

- 3.4. Except in the circumstances set out in paragraphs 3.6 and 3.7. a child volunteer will never normally be instructed to lie.
- 3.5. If during the course of a routine test purchase operation a child lies (when not instructed to do so), officers will immediately cease that operation, take no formal action relating to any sales to that child where they lied and not use that child for a test purchase operation again.
- 3.6. In line with the BIS Code of Practice, the child will be instructed on the approach to be taken, the reason for the approach, and will give their consent to the approach. Not answering truthfully to any question relating to their age asked by the seller will only be allowed in the exceptional circumstances set out in paragraph 3.7.
- 3.7. Exceptional circumstances are considered to be those where a previous test purchase attempt was only thwarted because the seller asked the volunteer's age or asked whether they were over 18, and not for proof of age (i.e. the volunteer responded that they are under 18 - which is not considered to be a simulation of a real-life scenario), or where there is an allegation that the seller is not asking for proof of age.
- 3.8. The Service will not use child volunteers to test purchase alcohol at on-licensed premises. However, officers will consider providing the Police with support and guidance should they decide to undertake test purchasing of alcohol at on-licensed premises.
- 3.9. For the purposes of 3.8 above, support of Police-led test purchase exercises may include providing County Council staff and recommending an appropriate child volunteer.
- 3.10. Should any child achieve unusually high levels of underage purchases on any particular exercise, their future use will be reviewed by a suitably qualified Lead Officer.

#### **4. Enforcement Actions**

- 4.1. When taking enforcement action the officer will have regard to the County Council's Enforcement Policy.
- 4.2. Enforcement actions may include:
  - a) **Advice and guidance:** to assist individuals, existing and prospective businesses and other organisations to comply with legal obligations. This may be achieved by providing guidance, explanatory materials and training. This enforcement activity provides the opportunity to resolve issues through discussion.
  - b) **Informal warnings:** used to reinforce advice and guidance where minor breaches of the law have been identified or it is deemed inappropriate to

take more formal action. Warnings of this type may be given verbally or in writing.

- c) **Simple Cautions:** Under certain circumstances a simple caution may be used as an alternative to prosecution. Simple cautions form part of a person's criminal record and can only be issued where the person admits the offence. In relation to Trading Standards offences a caution is usually recorded as a conviction on the National Trading Standards Sanctions Database. It will remain on record for three years and may influence a decision to prosecute should the individual or organisation reoffend. Simple cautions are intended to:

- enable quick resolution with regard to certain offences
- avoid unnecessary appearance in criminal courts
- reduce the chances of reoffending

Before a simple caution can be issued the following conditions must be satisfied:

- There must be sufficient evidence to give a realistic prospect of conviction
- The offender must understand the significance of a simple caution and admit the offence through signing a declaration

- d) **Penalty Notices for Disorder (PND):** These can be issued by a Police Officer for sales of alcohol to an underage person. The County Council may make recommendations to Police partners that a PND be issued where officers have evidence of an underage sale of alcohol. The PND is an on-the-spot fine payable within 21 days of issue.

- e) **Prosecution:** The County Council will exercise discretion in deciding whether to initiate a prosecution and will only do so where it is considered to be in the public interest. The decision to prosecute will always take into account the criteria laid down in the Code for Crown Prosecutors in line with the Council's Enforcement Policy. The more serious the offence, the more likely it is that a prosecution will be needed in the public interest.

- f) **Restricted sale or premises orders:** The County Council will request a restricted sale and/or a restricted premises order from the Magistrates Court where sales of tobacco products have been made repeatedly (subject to certain statutory criteria being met). If granted this will prohibit the seller and/or premises respectively from selling tobacco products for a period of up to 12 months.

- g) **Closure notice:** The County Council will consider the use of a closure notice instead of prosecution where legislation provides for this. Currently legislation provides this sanction, for a period of up to 336 hours, where there have been 'persistent' sales of alcohol (i.e. two sales in a three consecutive month period).

- h) **Request for licence review:** The County Council will consider requesting and bringing evidence to the relevant Licensing Authority for a licence

review where it is considered appropriate to do so. The outcome of a licence review may be a modification of the conditions on the licence, exclusion of a licensable activity, removal of the Designated Premises Supervisor, suspension of the licence for up to three months or revocation of the licence.

- i) **Proceeds of Crime:** In appropriate cases action will be taken to recover assets that have been accrued through criminal activity.

## **5. Legal considerations**

- 5.1 When conducting test purchases and investigations into underage sales officers will have regard to the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA).<sup>2</sup>
- 5.2 All enforcement actions will take into consideration advice issued under Primary Authority Partnership agreements. The Primary Authority Partnership scheme is regulated under the Regulatory Enforcement and Sanctions Act 2008 (RES Act)<sup>3</sup> which requires prior notification as part of the enforcement action process. Enforcement action may be blocked where this is inconsistent with advice previously given.

## **6. Enforcement Action Decision**

- 6.1. Any decision on the enforcement action will be taken at the time by the officer in charge, or after the event by a suitably qualified Lead Officer or an Operations Manager. The action will be recorded in writing by the officer making the decision.

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<sup>2</sup> [Regulation of Investigatory Powers Act 2000](#)

<sup>3</sup> [RES Act](#)