

Age Verification Policy

Information and Matters to Address

1. What is it?

A mandatory condition on every premises and occasional licence authorising the sale of alcohol saying that :

(1) There must be an age verification policy in relation to the sale of alcohol on the premises.

(2) An “age verification policy” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).

This means that there is a requirement to have a policy. There is no requirement beyond that but the Moray Licensing Board is encouraging all licence holders to have a written policy and the LSO will be looking for a written policy. The absence of a written policy will mean that licence holders will need to produce other evidence to the effect that a policy is in place and that staff are aware and enforcing the same.

It is **not** a change to licensing laws requiring persons to be over 25 before they can purchase alcohol. It is a requirement to have a policy on taking steps to verify the age of anyone attempting to buy alcohol who appears under 25. If someone appears over 25 then it follows that there is no requirement to take steps to verify their age.

Neither is it a requirement to take steps to verify a particular individual every time he/she attempts to purchase alcohol. If an individual is known to staff to be over 18 then there would not be a need to take steps to verify his/her age. Of course it is better if this is included within the policy itself.

2. What is required?

As per Q1 a written policy on age verification.

Often termed a “**Challenge 25**” policy.

The information on this page includes a sample policy outline that is available to download and adapt. It is not complete as a policy.

This document can have two uses:

- a) As the outline of a complete policy to expand upon using this additional information. As it is a requirement for every premises there will not be a single policy that fits all. Therefore it is essential that the outline is reviewed and tailored to suit the individual premises; AND
- b) In it's current outline form it may also be useful as a poster to notify customers that a policy is required and is in place. This may useful for premises to try and manage customer expectations as many more customers may be asked to produce valid identification when previously it may not have been required.

3. Why is it required?

First and foremost because it is now a mandatory condition to have a policy in place. Therefore it would be a breach of the licence to not have a policy.

Secondly breach of the licence and the lack of a policy may lead to both a review of the premises licence by the Licensing Board and criminal sanctions.

The requirement for a policy is designed to reduce the incidence of under-age sales of alcohol. Selling alcohol to someone who is under 18 is a criminal offence as is allowing alcohol to be sold to someone under 18. There are many other offences to do with alcohol and under 18s and in addition recent changes to the legislation have brought back potential criminal liability on the employers for the actions of their employees.

The police also carry out test purchase operations.

All these matters make it very important that a policy is put in place, that staff are trained in and follow it and that implementation and effectiveness is monitored. It is about protecting both employers and employees as far as is possible.

In respect of the offence of selling alcohol to someone under 18:

(2) It is a defence... to show that—

(a) the accused believed the child or young person to be aged 18 or over, and

(b) either—

(i) the accused had taken reasonable steps to establish the child's or young person's age, or

(ii) no reasonable person could have suspected from the child's or young person's appearance that the child or young person was aged under 18.

(3) For the purposes of subsection (2)(b)(i), the accused is to be treated as having taken reasonable steps to establish the child's or young person's age if and only if—

(a) the accused was shown any of the documents mentioned in subsection (4), and

(b) that document would have convinced a reasonable person.

(4) The documents referred to in subsection (3)(a) are any document bearing to be—

(a) a passport,

(b) a European Union photocard driving licence, or

(c) such other document, or a document of such other description, as may be prescribed.

Having an effective age verification policy means an accused is more likely to be afforded a defence.

4. What is suitable ID?

Following on from the provisions about a defence, in Q3, the safest form of defence is to show that reasonable steps were taken to establish the child/young person's age. Reasonable steps means looking at one of the **only** acceptable forms of ID. Those are:

(a) a passport,

(b) a European Union photocard driving licence, or

(c) a photo ID bearing the PASS hologram e.g. Young Scot card

Young Scot cards are issued to most school children, remain valid up to the age of 26 and can be updated in terms of photos. Information and Young Scot packs are available for free on the web at <http://www.youngscot.org/local/moray> and from Young Scot Moray.

There is also an Access Moray Card – which is a local Young Scot card and so remains acceptable ID - with information available at:

http://www.moray.gov.uk/moray_standard/page_44455.html

Note also the requirement that the document would have convinced a reasonable person so the document must not be obviously fake.

Further advice about fake IDs is available from the Home Office. For convenience a copy of the document has been placed on the Licensing pages of the website.

In the event of discovering fake ID the advice from the police is to try and contact them at the time the ID is presented. If this is not possible then the fake ID should be handed into the police at the first opportunity. Grampian police do not have a single point of contact for false ID and neither do they use bailment forms.

If no ID is seen then the defence can only be based on a claim that the accused believed the child/young person to have been over 18 and no reasonable person could have suspected otherwise. This will be a difficult test to pass.

5. What if no ID is available?

This is a matter for the individual premises to decide. Choices would be to:

- Refuse service at all in the absence of acceptable ID; or
- Allow staff to exercise a degree of discretion. Discretion might be on the basis of other evidence available, other information obtained, personal knowledge or a manager's / second opinion.

Exercising discretion will always be at the risk of the staff member, premises manager and potentially the licence holder.

The legislation is obviously limited in the forms of acceptable identification. In an area that has a high proportion of tourists it only allows for a passport or an EU photo driving licence. Many countries issue national identity cards and premises might consider those to be acceptable, although it will be more difficult to know whether those are fake.

If exercising discretion staff would be well advised to seek additional information and a second opinion wherever possible. The policy could include guidance on other documents, referral procedures and possible questions to ask, including the obvious age and date of birth questions – to marry the two.

The most important thing is that where doubt remains – where there is even a suspicion that the customer is under 18 – there should be no sale.

6. What other arrangements are in place?

The policy should describe the other measures in place to combat under-age sales. Those might include things like:

- Till prompts
- Posters and other signage
- Refusals book

These will provide additional evidence that an age verification policy is in place.

7. What monitoring arrangements are there?

A policy has to be properly implemented. Staff need to be trained (and re-trained) in the policy. The policy must be promoted and enforced from a senior level.

It will also be a good idea to keep a training log and ensure each staff member signs the log when they have completed the training.

Performance and effectiveness need to be monitored, for which good records will be required. These should be essential elements of any good policy.

Good record keeping is another reason to have the policy, and all matter relating to it, in writing. As records are to be kept policies should consider the application of the Data Protection Act 1998.

8. Will your policy cover other age restricted products?

There is an opportunity to include all age restricted products within a written policy. Not necessarily with the same age criteria. This is reflected in the sample policy circulated by the Scottish Government.

9. Agency Sales

It is important to consider and address the risk of agency sales. That is the risk that over 18s are buying alcohol for underagers or to re-sell to underagers

PREMISES AGE VERIFICATION POLICY

NAME AND ADDRESS OF PREMISES

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NAME OF PREMISES LICENCE HOLDER

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This policy applies in relation to the sale of alcohol for consumption on and off the premises and is in accordance with the provisions of paragraph 9A of Schedule 3 to the Licensing (Scotland) Act 2005

1. It is policy on these premises for staff to establish the age of any person attempting to buy alcohol when that person appears to be under the age of 25 years. This policy is a mandatory requirement of the Act.
2. Staff will require such persons, before being served alcohol, to produce, on request, valid identification. In accordance with the Act, the **only** valid forms of identification shall be:
 - A European Union photo-card driving licence
 - A passport
 - An approved proof of age photo ID card bearing a PASS (proof of age standards scheme) hologram e.g. Young Scot card
3. The premises manager and other staff on the premises shall be alert to the use of false or altered identification and retain the right to decline to serve any person whether or not in possession of valid identification.
4. A refusals book will be maintained and details of any customer who is not served will be noted in the book.
5. The premises licence holder will ensure that all relevant staff are made aware of the existence and content of this policy.
6. Full records will be maintained in terms of staff training, enforcement of the policy and refusals and those records may be made available for inspection to the police, the licensing authority and it's representatives.

SignedPremises Licence Holder
Date.....