

**Safe. Sensible.
Social.**

**Alcohol: Test Purchasing –
Innovative Practice**



department for
children, schools and families

This booklet sets out case studies that highlight the innovative practice under way in Local Authorities to tackle issues around test purchasing. In particular:

- 1) Proxy Sales (where an adult will buy alcohol on behalf of a young person).***
- 2) Off-Licences only selling to young people who are known to them.***

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Glossary

Licensing Act 2003: The Licensing Act 2003 consolidated a number of offences in relation to children. This includes the offences of selling alcohol to under 18s, under 18 year olds buying or attempting to buy alcohol **or** buying or attempting to buy alcohol on behalf of under 18 year olds (with some exceptions).

RIPA: RIPA (Regulation of Investigatory Powers Act 2000) covers the covert use of surveillance by Local Authorities, the police and other public authorities, for test purchasing and other functions.

Test purchase operations: partnership between police and trading standards officers to crack down on retailers that sell alcohol to under-18s.

Proxy purchasing: An adult purchasing alcohol on behalf of an under-18.

Operation Staysafe: partnerships between the police and local authorities sweeping anti-social behaviour hotspots and removing young people who are at significant risk off the streets at night and taking them to a place of safety.

Street based teams: partnership between police and youth workers keeping young people away from crime and anti-social behaviour.

LACORS: LACORS (the Local Authorities Coordinators of Regulatory Services) is the local government central body responsible for overseeing local authority regulatory and related services in the UK.

Introduction

Tackling problems caused by alcohol is a key public concern.

Alcohol based crime and anti-social behaviour is an issue that may affect any or all of us at one time or another and alcohol is often at the root of youth crime. Aside from the criminal aspect, excessive consumption of alcohol can also damage the health of young people and put them at risk of a whole range of harms.

We are committed to addressing the issue of under-age drinking through the principles set out in the Youth Crime Action Plan: prevention, non-negotiable support and tough enforcement.

The Government has recently introduced new powers aimed at tackling underage drinking, through the Policing and Crime Act 2009, including a new offence of persistent possession and making it easier for police to confiscate alcohol.

Building on this, the Mandatory Licensing Conditions for Alcohol Retailers set out the intention that, from 1 October 2010, all those who sell alcohol (except where they are doing so under a Temporary Event Notice) must have an age verification policy in place. This requires anyone who appears to the retailer to be under 18 (or an older age specified in the policy) to produce ID on request before being served alcohol in order to prevent under age sales.

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In addition, the Policing and Crime Act 2009 amended the offence of 'persistent selling to under 18s' by reducing the number of alcohol sales from three to **two**, within a period of three consecutive months, which are required for the persistent selling offence to be committed.

Young people need to be able to obtain alcohol before they can drink it. Parents have a major role in educating young people about the dangers of alcohol and often have more influence than they think. This is both in terms of the approach they take to young people's drinking – 80 per cent of young people who say their parents would not approve of them drinking have never tried alcohol – and in terms of controlling access to alcohol, with 22 per cent of young people (11–15) being given alcohol by their parents and a further one in six taking it from home without permission.

Local authorities, police, trading standards and other agencies all have a role to play in ensuring that the supply of alcohol to young people is controlled effectively. These agencies have reported that licensed premises are challenging more people for age identification. Members of staff appear to have got a better grasp of spotting under – 18s and therefore reducing underage sales, partly this has been down to the implementation of "Challenge 21" policy (or similar) in licensed premises.

We are aware, however, that young people are being increasingly innovative in their methods of obtaining alcohol. We know from areas that two approaches are being taken in the main:

- **Proxy Sales (where an adult will buy alcohol on behalf of a young person).**

- **In some instances, off-licences are only selling to young people who are known to them, so as to minimise the chances of being caught in a Test Purchase Operation.**

These are not new problems but perhaps are becoming more noticeable now that the checking of ID is more commonplace.

Test purchase operations formed a key part of the Government's drive on tackling **alcohol fuelled youth crime and anti-social behaviour** that took place during the summer in 2009. The drive combined **enforcement** activity including test purchase operations and confiscations, **support and early intervention** encouraging the linking of police activity to the work of substance misuse workers and the positive activities offer and through **communications** aimed to change young peoples' behaviour, build public confidence and tackle negative perceptions of young people.

It is clear from the testimonies of a number of local authorities, working in partnership with the police and with trading standards during the summer campaign, that there are increasingly effective ways of tackling proxy purchasing and running test purchase operations where retailers are selling to a small, known group of young people.

This guide sets out a number of examples of these approaches. It is intended to encourage you to be similarly creative in your approach to tackling underage drinking.

LACORS:

In England and Wales Local Authorities operate test purchase operations under the auspices of the LACORS 'A Practical Guide to Test Purchasing -2006' (n.b. this was reissued last year and is due for a minor change in April 2010). The use of this guide is endorsed by the Home Office and the Trading Standards Institute. The guide has been updated to reflect changes in relation to test purchasing and the Office of Surveillance Commissioners procedures and guidance document in relation to the Regulation of Investigatory Powers Act 2000 (RIPA).

For ease of reference, the main changes to the original 2002 code are outlined below:

- i) "Under age" means any age up to the age at which sales are permitted for the product by the legislation.
- ii) Under certain circumstances, young people may be employed and therefore paid for their participation in the operation.
- iii) In limited exceptional circumstances, young people may be permitted to lie about their age when attempting a test purchase.
- iv) It is recommended that officers are checked by the Criminal Records Bureau prior to participating.
- v) It is recommended that risk assessments are carried out; especially where test purchase operations are made in on-licensed premises.

- vi) Covert equipment may be used. Subject to risk assessment, it is not essential for an officer to be present in the premises.
- vii) Inclusion of updated information relating to surveillance and use of Covert Human Intelligence Sources under RIPA.

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Case Studies

Proxy Sales

Salford – using covert surveillance

Salford police and trading standards undertook covert observation (trading standards staff in unmarked cars) of a premise and its immediate surroundings, using RIPA protocols, in order to identify if and how young people were able to obtain alcohol from the shop. This method covered the problem of adults buying for underage people and the issue of traders selling to locals and not trading standards volunteers.

During the operation, if any of the premises were seen to sell alcohol to underage people then they were challenged and appropriate action was taken by trading standards and the police. Any young person caught drinking alcohol bought from a shop by an adult had their details taken and neighbourhood teams made follow-up visits to speak to their parents.

Result: The operation was a successful exercise in getting the message across to the trade and local community that authorities in Salford are serious in their intent to tackle the issue of young people obtaining alcohol, by whatever means, and will take appropriate actions.

During the operation two individuals were issued with £80 Fixed Penalty Notices by the police for the offence of purchasing alcohol on behalf of children. 64 cans of lager were seized along with four bottles of Vodka.

Regulation of Investigatory Powers Act 2000 (RIPA):

RIPA enables Local Authorities to effectively investigate and obtain evidence against a wide range of regulatory functions that Local Authorities have a statutory duty to enforce. It covers the covert use of surveillance by the Local Authorities, the police and other public authorities, for test purchasing and other functions.

The use of RIPA is an essential tool for Local Authorities to ensure that they use their powers appropriately and lawfully and the human rights principles of necessity and proportionality are observed.

Further guidance on the use of RIPA can be found in LACORS 'A Practical Guide to Test Purchasing – 2006.'

Blackburn – *working in partnerships with retailers*

Blackburn with Darwen undertakes proxy sales operations when intelligence has been received regarding certain premises in the area. The Local Authority uses authorised surveillance equipment to capture evidence of proxy sale activity in the vicinity of the shop.

Trading standards, in conjunction with Lancashire Police licensing officers liaise with shop owners when proxy problems are identified to work together to stop serving to individuals suspected of buying alcohol on behalf of underage children.

Blackburn trading standards have taken the innovative step of placing their officers in premises (in cooperation with the retailer) posing as shop workers stacking shelves etc. When

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the sales assistant thinks that a customer might be someone who will pass the alcohol on to a young person, they will signal to the trading standards officer in the shop who will, in turn, communicate this to a police officer outside the premises. The police officer then places the customer under surveillance to see if they pass the alcohol on.

This approach has proved successful and a number of individuals, who were found to have passed the alcohol on to children, were subsequently prosecuted and received a fine. Publicity generated from these operations has led to increased awareness within the area that it is an offence to purchase alcohol for an under 18 year old.

Durham – Communicating with the trade

Durham has worked with their off-licences and supermarkets to ensure that they are aware of the legislation around proxy sales. As part of this approach, a comprehensive communications campaign was launched with the intention of increasing awareness, amongst the young adult (18–24) population, of the offence of supplying alcohol to under 18s.

The campaign was called ‘Don’t Pass it on’ and involved letters to off-licences, posters, stickers on the drinks that young people tend to go for and adverts on buses.

The campaign saw a 20% increase in the awareness of those surveyed that buying alcohol for someone under 18 is an offence.



Retailers selling only to young people that they know

Hull – *working with partners to build up intelligence*

In Hull the issue of retailers only selling alcohol to young people they know does occur but only in a small minority of licensed premises. These are usually small, community-based premises.

The police only visit premises that they have intelligence about. If a test purchase operation does not reveal underage sales, but there are still concerns, police will work with youth services and neighbourhood policing teams to solve the problem by observation. This entails taking a RIPA out on the premises and utilising local CCTV cameras. After a sale is made, the police talk to the store manager and offer advice and support in the first instance to prevent future sales, with the promise that they will be revisited in the future and face the threat of closure if sales to under 18s continue.

Staff unwilling to challenge people for ID

Hull has also tried to address issues of shop staff who have said that they are too frightened or embarrassed to challenge the person trying to buy the alcohol.

They have developed a Conflict Management Course to try to equip shop workers with the skills that they need to address this issue. The course was developed in conjunction with the Primary Care Trust and with Hull College. Places on the course are free of charge to one employee per premise and the intention is that the learning is disseminated back by that employee to his/her colleague(s). Feedback on the course has been very positive and the numbers of people attending has increased each time it has been run.

Persistently selling alcohol to Under 18s

The Policing and Crime Act 2009 amended the 'persistent selling to under 18s' offence (in Section 147A of the Licensing Act 2003) by reducing the number of alcohol sales to under 18s from three to **two**, within a period of three consecutive months, for the offence to be committed. This is where alcohol is sold to an under 18 on the same licensed premises, or premises in respect of which a temporary event notice has been given. The premises licence holder or the premises user who gave the temporary event notice, may be prosecuted. A court may make an order suspending the premises licence to sell alcohol for up to 3 months.

Southend – combining test purchases with positive activities

Operation 'Red Bull' brings together a range of agencies to deliver positive activities, engaging young people that might be drinking in conjunction with test purchase operations to tackle underage sales.

Intelligence is key and trading standards and the street based teams have developed a close working relationship to pass on information about retail premises suspected of supplying alcohol to under 18 year olds. During the summer, trading standards officers used the intelligence to carry 7 targeted test purchase operations and to identify retailers requiring further advice and guidance to avoid under age sales in the future.

Street based teams play an important role in supporting the drive against under-age drinking. They signpost young people to positive activities, available in Southend, as an alternative to drinking. A boxing club in the town has proved extremely popular and alcohol advice is provided. Young people are told that if you want to box, you cannot do so if you are drunk or have a hangover.

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Mandatory Licensing Conditions

In January 2010 the Government set out five mandatory conditions to tackle alcohol-related crime and disorder, which cost the UK an estimated £8 billion to £13 billion a year.

The proposed conditions are:

- Banning irresponsible promotions such as “all you can drink for £10” offers, women drink free deals and speed drinking competitions.
- Banning “dentist’s chairs” where drink is poured directly into the mouths of customers making it impossible for them to control the amount they are drinking.
- Ensuring free tap water is available for customers.
- Ensuring licence and club certificate holders who sell or supply alcohol have an age verification policy in place requiring the anyone who appears to the retailer to be under 18 (or an older age specified in the policy) to produce ID on request before being served alcohol. The aim is to prevent underage sales which can lead to anti-social behaviour and put young people at risk of harm.
- Ensuring that all on trade premises make available small measures of beers, wine and spirits to customers.

Any premises that breach the mandatory code may be subject to a licence review which can result in a fine up to a maximum of £20,000 and/or six months imprisonment.

The code is expected to be introduced in two stages. The first three conditions covering irresponsible promotions, the “dentist’s chair” and ensuring free tap water is available will come into effect on 6 April 2010.

The remaining conditions on age verification and ensuring smaller measures are available will come into effect on 1 October 2010 to give retailers time to prepare.

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Community Alcohol Partnerships (CAP)

Community Alcohol Partnerships aim to tackle underage access to alcohol through co-operation between alcohol retailers and local stakeholders, such as trading standards, police, local authority licensing teams, schools and health networks.

Central to the operation of CAPs is the sharing of information and training between partners to combat purchase and possession of alcohol by those under 18 coupled with rigorous enforcement of laws designed to tackle anti-social behaviour.

The model was piloted in St Neots and has since been rolled out to a further 12 local areas. Evaluation of the scheme in Kent showed that in CAP areas criminal damage came down by 6% more than in non-CAP areas.

For more information on CAP, see www.communityalcoholpartnerships.co.uk

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Summary/Key Points:

- The Licensing Act 2003 consolidated a number of offences in relation to children. This includes the offence of selling alcohol to under 18s (section 146) and allowing the sale of alcohol to under 18s (section 147). Section 149 of the Licensing Act 2003 makes it an offence for a person aged under 18 to buy or attempt to buy alcohol **or** for any person to buy or attempt to buy alcohol for an under 18 (unless the person buying is 18 or over, the person consuming is 16 or over, the alcohol is beer, wine or cider and its purchase or supply is for consumption at a table meal where they are accompanied at that meal by an adult).
- Authorities should be aware that the LACORS guidance on test purchasing has been updated to reflect changes in test purchasing and the use of RIPA.
- Test purchase and proxy purchase operations are particularly effective when combined with communications campaigns to raise awareness of the relevant offences and the penalties in place.
- Responsible retailers are normally keen to assist in operations and should be included in any operations where appropriate.
- Positive Activities, particularly under 18s clubs or music events that are alcohol free have shown considerable promise in reducing the problems associated with young people's drinking. They also provide an opportunity to disseminate advice and information to tackle underage or proxy sales.

Useful links

Positive activities for young people: Expanding Friday and Saturday Night Provision.

- Safe, Sensible and Social: Tackling youth alcohol fuelled antisocial behaviour.
- http://www.dh.gov.uk/dr_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_075219.pdf
- www.direct.gov.uk/whyetdrinkdecide
- www.dcsf.gov.uk/everychildmatters/ytf
- <http://www.homeoffice.gov.uk/crime-victims/reducingcrime/alcohol-related-crime/>
- <http://www.everychildmatters.gov.uk/health/substancemisuse/>
- <http://www.homeoffice.gov.uk/about-us/news/alcoholstrategy-announced>
- www.lacors.gov.uk
- www.wsta.co.uk
- www.pass-scheme.org.uk
- www.communityalcoholpartnerships.co.uk



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Please quote the ref: 00161-2010BKT-EN

ISBN: 978-1-84775-665-7

D16(8604)/0210

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