

The Retail of Alcohol Standards Group

Guidance for on-line retailers of alcohol

A close-up photograph of several hands holding different alcoholic beverages. In the foreground, a hand holds a tall glass with a pink drink, ice, and a mint garnish. To its right, another hand holds a glass with a layered orange and yellow drink. In the background, other glasses with various colors and garnishes are visible, all with black straws. The setting appears to be a social gathering at a bar or restaurant.

RASG

Retail of Alcohol
Standards
Group

2021 Edition

Contents

	Introduction from the Chair	3
1	About RASG	4
2	The legislation on the sale of alcohol in England and Wales	
	a.The Law	
	b.Licensing Objectives and Guidance	5
3	RASG Guidance and Best Practice	11
4	Business models when selling alcohol online	12
5	Operational steps to prevent the sale of alcohol to minors and manage issues at the point of delivery	
	a. Before an order is placed	
	b. When an order is placed	
	c. At Delivery	13
6	Other considerations and increased risk factors	16

Introduction from the Chair



The Retail of Alcohol Standards Group (RASG) has been at the forefront of responsible retailing of alcohol since its formation in 2005. RASG has produced extensive guidance for UK retailers on Challenge 25 and works closely with the Home Office and Department of Health and Social Care to ensure that alcohol is sold responsibly. This guidance is part of a wider body of work that seeks to promote good practice by retailers and collaborative working with regulators.

Online sales of alcohol are a significant feature of the UK market and have expanded rapidly during the pandemic. They are governed by the same rules as face-to-face sales of alcohol i.e., sales within a store or in a bar. Determining someone's age is easier when the sale takes place face to face rather than remotely. As sales of alcohol online increase it gives RASG an opportunity to showcase best practices that already exist within RASG businesses and to support retailers who may not have robust procedures and processes in place.

In the UK we have a mature and well-established online market and, although there is no evidence that there has been an influx in minors obtaining alcohol online, we must not be complacent and must continue to ensure that safety for children online is paramount.

RASG has developed this free guidance to support online alcohol retailers to build best practice within their own organisation and to help them remain compliant when selling online, no matter their business model, size or their resources. We suggest that you select parts of the guidance that are appropriate for your business.

As ever this guidance will evolve as best practices change and technology allows online retailers to be more agile in their approach.



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The Retail of Alcohol Standards Group (RASG) was established in 2005 in an effort to tackle underage sales and underage drinking. In 2006 RASG developed and launched the ID scheme 'Challenge 25'. A scheme requiring anyone who looks under the age of 25 to produce ID, on request, when purchasing alcohol. Challenge 25 introduced a common standard for ID checking. The popularity, growth and ease of the scheme to be applied to any age restricted products meant that it was simple for retailers to adopt and apply to all age restricted goods that they sold. This also provided consistency for consumers, making the production of ID, if you looked under 25, the norm when buying age restricted goods.

Following on from the development of Challenge 25, RASG focussed on underage drinking and proxy purchasing. This led to the development of Community Alcohol Partnerships (CAP), localised schemes which aim to reduce alcohol harm among young people by tackling both the supply and demand side of alcohol in communities (<https://www.communityalcoholpartnerships.co.uk/>).

Since the creation of RASG the membership and remit of the group has continued to grow. In 2018 all of the RASG materials and website were reviewed to make them simpler and more visually appealing. The website hosts a map of the UK to enable users to access material specific to England, Wales, Scotland or NI.

In 2019 membership of RASG was extended to include specialist alcohol on-line retailers, such as Laithwaites, The Wine Society and Virgin Wines. This was a crucial move to ensure that the group remains up to date and vigilant in identifying issues that affect all retailers in today's market, whether operating off or on-line.

In 2020, at the start of the Covid-19 global pandemic RASG identified the likely impact this disease would have on retailers' abilities to fully comply with their licensing conditions. We drafted a guide, aimed at local authority licensing departments in England and Wales, setting out the likely areas of compliance that the virus would impact, along with specific asks from the retail sector and advice to local authorities. This draft guide was sent to the Home Office with a request to publish it as official guidance, applicable during the pandemic. As a result of this work, Kit Malthouse MP, Minister of State for Crime and Policing, sent a letter to all authorities in England and Wales setting out key areas where licensing authorities should consider adopting a pragmatic and flexible approach to enforcement during the pandemic. At the same time, RASG created a branded poster on its website, available to all, reminding customers they may be asked to remove their face coverings for the purpose of checking ID when buying age restricted goods.

The group continues to work on ways to prevent underage sales and underage drinking, whilst also promoting high standards among alcohol retailers.



The Law

The Licensing Act 2003 established a system of licensing for the sale and supply of alcohol in England and Wales. This guidance relates to the 2003 Act and is limited to the requirements for retailers in England and Wales.

Scotland and Northern Ireland have their own Acts of Parliament that regulate the sale and delivery of alcohol there.

There are three different Acts that govern licensing matters in the UK:

- The Licensing Act 2003 – England & Wales
- The Licensing (Scotland) Act 2005
- The Licensing (Northern Ireland) Order 1996

Alcohol licensing can be a complicated process with many differences between jurisdictions. If you have any questions regarding the law our advice is to speak to an independent specialist Licensing Solicitor.

The law in relation to Online Sales & Delivery

Sections 145 to 154 of the Licensing Act 2003 set out the key legal provisions relating to children and the sale of alcohol in England and Wales.

Section 151 deals with the delivery of alcohol to children.

(1) A person who works on relevant premises in any capacity, whether paid or unpaid, commits an offence if he knowingly delivers to an individual aged under 18—

(a) alcohol sold on the premises, or

(b) alcohol supplied on the premises by or on behalf of a club to or to the order of a member of the club.

(2) A person to whom subsection (3) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol sold on relevant premises.

(3) This subsection applies to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the delivery of the alcohol.

(4) A person to whom subsection (5) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol supplied on relevant premises by or on behalf of a club to or to the order of a member of the club.

(5) This subsection applies—

(a) to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the supply, and

(b) to any member or officer of the club who at the time of the supply in question is present on the premises in a capacity which enables him to prevent the supply.

The legislation on the sale of alcohol in England and Wales

However, subsection 6 goes on to make provision for delivery to a purchaser's home or place of work within a specific set of conditions

(6) Subsections (1), (2) and (4) do not apply where—

(a) the alcohol is delivered at a place where the buyer or, as the case may be, person supplied lives or works, or

(b) the individual aged under 18 works on the relevant premises in a capacity, whether paid or unpaid, which involves the delivery of alcohol, or

(c) the alcohol is sold or supplied for consumption on the relevant premises.

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010, as amended introduced conditions that apply to all licensed premises in England and Wales. These conditions apply to the on-trade¹, the off trade², or both. The conditions also apply to companies selling alcohol remotely (e.g. online, by telephone or by mail order).

In terms of this Order, online businesses that sell or supply alcohol must have an age verification policy that relates to that business. Relying merely on asking a customer for their date or birth is unlikely to be sufficient, nor can you assume that a payment made by credit card is made by someone 18 or over³.

The age verification policy must:

- as a minimum, require individuals who appear to be under the age of 18 year to produce, on request, before being served or supplied alcohol, a proof of age document that bears their photograph and date of birth along with either a holographic mark or an ultraviolet feature.

Age verification policy: example - GOV.UK

<https://www.gov.uk/government/publications/age-verification-policy-example>

The Mandatory Condition Order detailed above requires that age verification takes place before a person is 'served' alcohol.

1 The on trade is a term used for businesses that sell alcohol for consumption on the premises e.g. pubs and clubs

2 The off trade is a term used for businesses that sell alcohol for consumption off the premises e.g. shops

3 Pre-paid credit cards are available to those under 18 years of age. There is currently no way for banks to verify if a card holder is 18 or over.

The legislation on the sale of alcohol in England and Wales

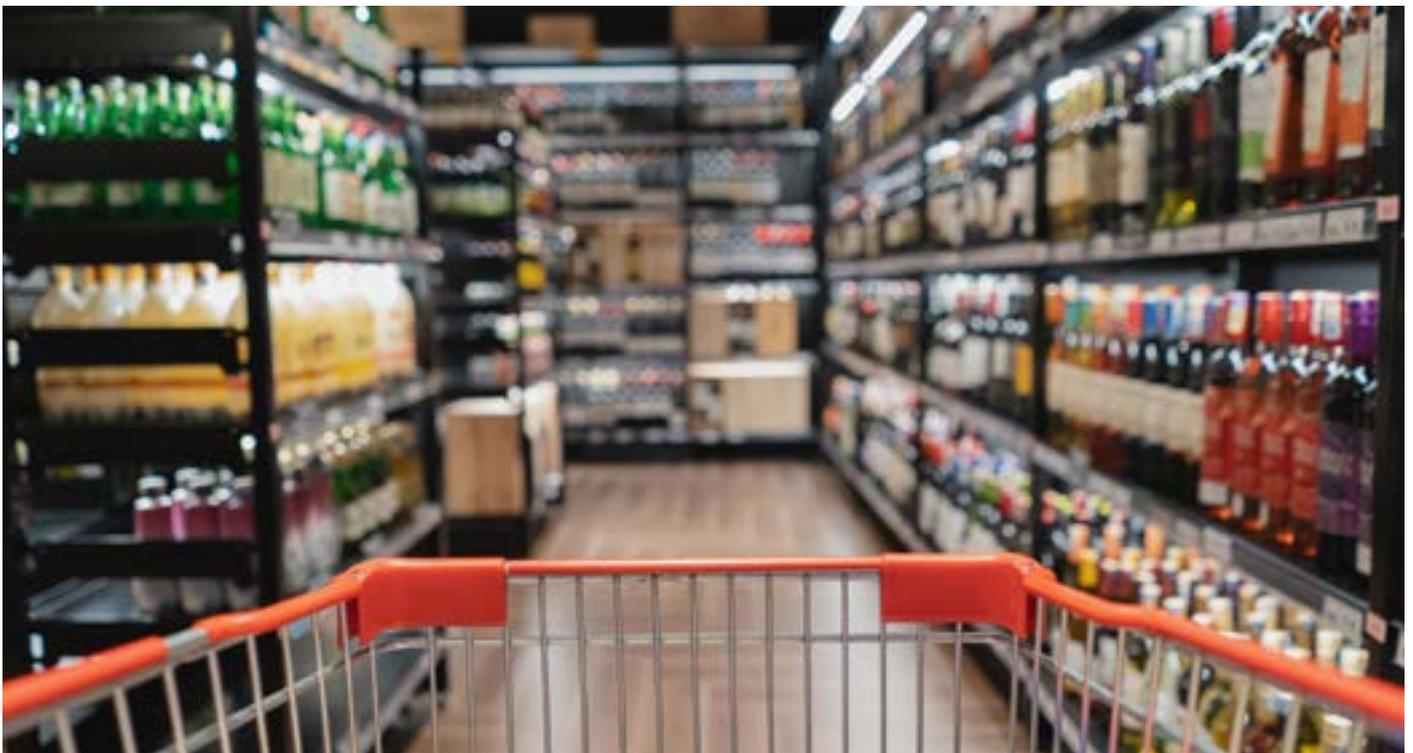
The Licensing Objectives and Guidance

Underpinning the strict regulatory environment that regulates the sale of alcohol there are 4 licensing objectives of equal importance. Businesses must demonstrate how these licensing objectives will be promoted:

1. The Prevention of Crime and Disorder
2. Public Safety
3. The Prevention of Public Nuisance
4. The Protection of Children from Harm

In this guidance we are mainly concerned with objective 4 - The Protection of Children from Harm.

To fulfil this objective, UK retailers must not only adhere to the law regarding alcohol sales to minors but must also undertake further measures to prevent underage drinking and general harm to children through the sale of alcohol. A robust age verification policy, amongst other preventative measures, is a must when trying to satisfy this objective.



The legislation on the sale of alcohol in England and Wales

Personal Licence & Premises Licences issued by a Local Authority

The starting point is that a business needs to hold a premises licence to sell alcohol. This requires there to be a Designated Premises Supervisor, who must hold a personal licence and who is responsible for authorising sales of alcohol.

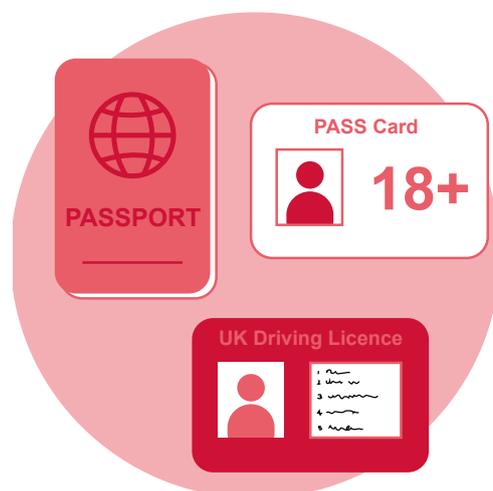
A person can obtain a personal licence by sitting a course and exam to receive a qualification. These are available online from many providers.

When applying for a Premises Licence, you must demonstrate how you will comply with and promote the Licensing objectives.

An on-line retailer may not need a premises licence, depending on the arrangements for identifying and despatching the goods for each customer.

Guidance issued by the Home Office under s.182 of the 2003 Act explains the position on age verification checks for distance sales. Point 10.52 of the s.182 Guidance states:

- Licence holders should consider what steps they should take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely i.e., sales made online, by telephone, mail order and alcohol delivery services.
- Age verification measures should be used to ensure that alcohol is not sold to any person under the age of 18. Where alcohol is sold remotely, the sale is made at the point the goods are “appropriated to contract”, but the alcohol is not actually served until it is delivered to the customer.
- Steps should be taken to ensure that age verification takes place before the alcohol is served i.e. physically delivered to the customer.
- It is the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be a minor.



The legislation on the sale of alcohol in England and Wales

Offences

Under the 2003 Act, it is an offence:

- To sell alcohol to minors e.g. anyone under the age of 18.

It is not an offence:

- for minors to browse Internet sites that sell alcohol.
- by you and/or your staff or business if minors do browse your Internet site.
- to deliver alcohol to a minor, provided that the sale itself was made to an adult, and the subsequent delivery is to that adult's home or place of work (s.151).

Penalties

If alcohol is sold to a minor, either in-store or online, both the business and the person making the sale commit an offence.

If alcohol is sold to a minor the business could face:

- A potentially unlimited fine.
- A closure order for a maximum of 14 days following persistent underage sales.
- A review of the alcohol licence with the potential to lose it and have to cease trading.
- Removal of a Designated Premises Supervisor.

If alcohol is sold to a minor, the person making the sale could face:

- A potentially unlimited fine, unless they can show that they took all reasonable precautions and exercised due diligence, which includes asking for identification, that would convince a reasonable person that the purchaser was over 18.
- An on the spot fine of up to £90.

Defences

Under the Licensing Act 2003, it is an offence to sell alcohol to any person under 18 years. However, it is a defence if the person charged believed that the purchaser was 18 or over and they had taken all reasonable steps to verify their age.

The Act goes on to say that a person is deemed to have taken reasonable steps to determine a person's age if they asked for evidence of the buyer's age and this evidence would have convinced a reasonable person that the purchaser was over 18.

It is also a defence for a person to show that they exercised all due diligence to avoid committing an offence.

The legislation on the sale of alcohol in England and Wales

Taking reasonable steps

Reasonable steps differ from business to business. What is reasonable varies depending on the size of a business, the business model, the goods being sold, and the risks associated with those goods.

This will mean taking positive action to make sure that you have procedures in place to ensure that sales to minors do not happen. This involves assessing the way that your business operates and putting in place a series of checks to prevent underage sales being made. Reasonable steps will involve having an appropriate age verification policy in place but details of when verification checks are required will depend on how a business operates.

Undertaking due diligence

This means:

- Assessing the risk of making sales to minors and the points in the transaction where this could happen
- Ensuring that your system of checks works and documenting the checks that are done, perhaps with internal and external audits
- Ensuring that all staff are aware of, and are trained on what is required of them,
- Putting in place periodic or even constant monitoring



For face-to-face sales, it is clear when the actual sale and point of service take place, but what does this mean in relation to online sales?

Section 190 of the Licensing Act 2003 provides:

“the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract”.

For distance sales this means that the sale takes place when the goods are selected and dispatched to the customer, not at the time of checkout at the website, nor at the time of delivery of the goods. If an order and payment is taken at one address and the alcohol is stored, selected and dispatched from another address hence the sale takes place where the specific alcohol is physically selected and allocated to that order. It is the premises at which this appropriation takes place that must have a premises licence.

It is therefore the business that makes the sale by appropriating the goods to the contract that requires a licence under the Act. This may be the fulfilment partner rather than the on-line retailer.

The s.182 guidance blends the concepts of “delivery” and “service”, while the law makes it clear that delivery to a minor is not itself an offence.

Since the licence holder in many cases of on-line sales will be a partner business providing the fulfilment service, it is that business’ alcohol licence that is at stake in the case of any breach. This is why it is important for online retailers to have a clear policy and process, to protect minors, customers, itself and its delivery partners.

Thus, under the Act, there is no legal duty for distance sellers to verify a person’s age at the point of delivery if the conditions are met, unless the customer is present and appears to be under the age of 18 - in which case the mandatory condition in relation to age verification would apply to the delivery operator.



Business models when selling alcohol online

Online sales and home delivery are extremely common today, offering consumers convenience and choice about when and where they receive their goods.

We have identified 3 main business models that offer the delivery of alcohol to consumers:



Multiple retailers - supplying a mix of general groceries and age restricted products. Services are provided both on-line and in-store.



Specialist retailers - supplying age restricted products sometimes exclusively on-line, but sometimes also in-store. Some businesses are national in their scope, whilst others are local retailers who have a national reach by virtue of their e-commerce offering.



On-line, quick turn-around food delivery companies and other food outlets. These businesses act as intermediaries between take-out food outlets and customers. These businesses can provide a mix of food and age restricted goods. They may work in partnership with other businesses.

Operational steps to prevent the sale of alcohol to minors and manage issues at the point of delivery

RASG members have indicated that they employ a combination of actions at key customer “touch points”. These have developed over a period of time and are specific to the UK retail market. These act together to reduce to a very low level the risk of sales to minors.

A business might consider all or any of the following:

Before an order is placed

While the Act does not create an offence of allowing minors to browse websites that sell alcoholic beverages, including information and age verification steps at the stage of browsing is an important step as it sets the tone of the business’ approach. This is commonly described as an ‘age gate’.

An age gate is not an age check and should not be the only mechanism that a business uses. This step alone is unlikely to satisfy a due diligence defence due to the ease with which false information can be entered and it should be adopted with other options at different stages of the sales process.

- Develop a clear policy in relation to the sale of alcohol online and make this available publicly on your website or as part of your website terms and conditions.
- Place Drinkaware branding on your websites and a link to [Drinkaware.co.uk](https://www.drinkaware.co.uk).
- Consider third party technological solutions that sit behind your registration and billing pages, which enable age to be verified. If your business wants to go further and check identity this may require more complex solutions.

When an order is placed

- Ensure you have robust, independent, standards-based age checks at the point of sale online. Many businesses employ a third party to carry out this service. There are many companies that offer this age check service. We recommend that you only approach businesses that have adopted PAS 1296:2018. Adopting this standard is a recognised way of demonstrating best practice and compliance. The standard provides due diligence recommendations to help businesses ensure they are meeting specific regulatory compliance needs. Please refer to the Age Verification Providers’ Association (AVPA) website for a list of suppliers who operate to PAS 1296:2018¹ <https://avpassociation.com>
- Consider requiring customers to set up a mandatory account to be able to place an order on-line. Setting up an account will include having to enter personal details such as a customer’s name, address, date of birth and (possibly) payment card details, allowing businesses to run checks on the data entered. This facilitates a lighter touch and greater convenience for returning customers, promoting repeat business.

¹ PAS 1296 is a Code of Practice for Online Age Verification service providers, developed by the British Standards Institute and the Digital Policy Alliance. It is intended to assist on-line providers of age restricted products with a means to comply with regulation, and safeguard their reputation, by providing recommendations that help prove an online user’s age.

Operational steps to prevent the sale of alcohol to minors and manage issues at the point of delivery

One or more of the following additional checks could be carried out using this personal data:

- **Electoral role checks** to see if the person setting up the account is listed on the electoral register enabling retailers to verify whether a customer is over 18 years old.
- **Background checks** by a number of commercial providers, who check to provide confirmation of a person's identity and/or credit history. A background check can confirm that information provided at the time of setting up an account is valid.
- **Monitor** "alcohol only" baskets, for unusual purchasing patterns and possibly set up some "red flag" algorithms.

A credit/debit card check ought not to be relied on exclusively. RASG members have experience with pre-paid cards provided to minors and the banks have no way to determine whether a card is pre-paid or if the holder is 18 or otherwise.

When an order is delivered

Whether alcohol is delivered by a provider's own delivery service, an on-line specialist company or a third-party delivery service the same challenges apply to all, in relation to underage sales.

While the law does not require ID checks to be made, the tone of the guidance suggests that it may be best practice to ensure that age verification checks are carried out on those who appear to be under the legal age whenever possible when alcohol is delivered to purchasers in person.

Not all delivery companies are able to offer an age check service.

This is not always possible, especially for on-line specialists that will often be requested to leave goods in a specified safe place, meaning that there is no face-to-face contact with the customer and so ID cannot be requested.

There may be circumstances where a delivery driver has no clear instructions and leaves the goods with whoever is in the house, which may be a minor.

These are our considerations at the delivery point in the main scenarios:

Where the delivery takes place to an individual and AV checks have already been completed:

- If the person is not the customer and appears to be an adult (e.g., a neighbour or visitor) then consider how to alert the customer that the delivery has been made. e.g. text/email or phone call
- If the person is not the customer and does not appear to be an adult, consider whether to rely on s.151(6) of the Licensing Act 2003, either as a matter of general policy or in individual cases. If there is any doubt the delivery should not be made.

Operational steps to prevent the sale of alcohol to minors and manage issues at the point of delivery

Where the delivery is to a safe place, does not involve contact with a person and AV checks have already been completed:

- Alert customers via text or email when the delivery has been made.
- Take a photo of the product in situ to show compliance with the customer's request.
- Think about where you are leaving the alcohol. If you feel that it is not safe to leave the alcohol you should not complete the delivery.

When there are no AV checks completed at the point of order:

Follow Challenge 25 at the doorstep – especially if your business has not completed the ID check at the time when the order was placed. See <https://rasg.org.uk/about/>



Drivers to be trained in Challenge 25 and the acceptable forms of ID. If the customer cannot provide ID then the alcohol cannot be left with the customer.

- Drivers trained not to leave products if they gain knowledge that this could be a proxy sale.
 - o Ensure the drivers are aware on how to identify proxy sales and what process they should follow if this is identified.
- Drivers trained not to leave alcohol with someone who is already drunk .
 - o Ensure the drivers are aware on how to identify someone who is already under the influence of alcohol and the process they should follow if this is identified.
- Consider training delivery drivers on how to manage difficult situations and conflict whilst delivering a great customer experience.
- Consider providing drivers with handheld devices that prompt the drivers to request ID when delivering alcohol. The prompt could have an age 18 date of birth embedded to make the ID check easier.
- Consider providing drivers with clear prompts on packing/route lists or delivery manifests that the delivery contains alcohol.
- Enable drivers to provide customers with a customer service contact for support in case of issues.
- Consider using an auditing company to ensure that Think 25 audits are carried out on the doorstep. This way you can monitor your drivers are doing the checks accurately.
- Develop a process that allows drivers to feedback concerns or comments after a delivery takes place.
- Develop a process to review customer feedback and complaints to highlight issues with Challenge 25 or delivery of alcohol.

This may be most suitable for business using their own vehicles and drivers.

Other considerations and increased risk factors

Although there is no evidence of increased risks providers of same-day deliveries ought to be mindful of the potential for abuse. Same-day deliveries, particularly if the delivery is late at night, during a holiday period, or the product is one that might be perceived to appeal to minors. In those cases, special care should be taken to verify the age of the customer and that any recipient can lawfully take the delivery. Look out for:

- Young people at a party/any alarm bells being raised where the delivery is taking place.
- Does the kind of products that are being delivered appeal to young people?
- Consider making your delivery drivers aware of increased risk indicators due to the time of year – e.g. end of GCSEs and A-Levels and summer holidays etc.

Post-delivery communication with the customer will also be relevant. Businesses relying on automated checks should consider if their provider does this in 'real time' or in batches.

This best practice is a guide and by no means exhaustive. You will need to complete a risk assessment of your products and your customer profile, and then make appropriate decisions for your own business.



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