

The Retail of Alcohol Standards Group

RASG

Retail of Alcohol
Standards
Group

Guidance for online retailers of alcohol



2022 Edition

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Introduction from the Chair



The UK has a mature, well-established online market with online sales of alcohol being a significant feature of this market. Although common practice before the pandemic, restrictions and lockdowns introduced during the pandemic led to a huge increase in the number and the value of both general e-commerce sales and alcohol e-commerce sales. There is no evidence that this increase has led to an influx in minors obtaining alcohol online, but despite this, we will not be complacent and must continue to ensure that safety for children online is paramount.

Online sales of alcohol are governed by the same rules as face-to-face sales and while the legislation around alcohol sales may be plentiful, it is not necessarily easy to interpret, especially for small retailers or those new to it.

The Retail of Alcohol Standards Group (RASG) members recognise that the legislation around selling alcohol was written well before online sales became the norm, and while we accept that the provisions of the Act cannot be applied in the same way to online sales as they can face to face sales, we have worked with this position for years without any apparent issues.

The increase of online alcohol sales presents RASG with an opportunity to showcase the best practices that already exist within our businesses and to support retailers who may not have as robust procedures and processes as they need. This opportunity to help other retailers really bores down into one of the core principles of RASG and the reason that RASG was formed back in 2005, i.e. to help ensure that all retailers of alcohol, no matter their business model, size or resources, can comply with the legal requirements expected of them and to ensure that alcohol is sold in a compliant and sensible manner.

One of the key purposes of this guidance is to demonstrate to retailers that there is no right or wrong time to conduct an age verification check, the important thing is that an age check should be done. There is no specific time stipulated within the legislation and so this guidance helps retailers to identify when checks can be done and how, depending on their own, unique business model. You will see that RASG members employ various checks, done at different times throughout the sales journey, to minimise the risk of alcohol being supplied to minors. These checks will vary from business to business and will depend on the model of the business concerned. This guidance identifies a number of different business models that offer to sell and/or deliver alcohol to consumers, and whilst RASG members do not fall into each of the categories identified, suggestions of good practice have been included for each.

Please note that this guidance is relevant to off trade retailers only i.e. retailers that sell alcohol for consumption off their premises as opposed to clubs, pubs and hotels who sell alcohol for consumption on the premises.



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RASG is a panel of UK retailers committed to promoting the responsible retail of alcohol both in-store and on-line. We work with and share our expertise with government, local government representatives, industry bodies, trade associations and other interested parties. We keep abreast of legal requirements, trends and changes to offer practical advice and develop guidance and best practice to aid all retailers in operational compliance.

RASG was established in 2005 to tackle underage sales and underage drinking. We developed and launched the ID scheme 'Challenge 25' in 2006 and established the first Community Alcohol Partnership in 2007. The benefit of Community Alcohol Partnerships very much being the fact that these are localised schemes which aim to reduce alcohol harm among young people by tackling both the supply and demand side of alcohol in communities.

In 2019 membership of RASG was extended to include the Wine and Spirit Trade Association's online specialist alcohol retailers. 2022 saw the first membership of a fast delivery app business. The decision to extend membership was a much needed, crucial move to ensure that RASG remains up to date and vigilant in identifying issues that affect all retailers in today's market, whether operating off or on-line.

This guidance is simply one way that RASG continues to work on ways to prevent underage sales and underage drinking, whilst also promoting high standards among alcohol retailers.



This guidance is not a legal document and bespoke legal advice should be considered. It has been produced in collaboration with our Primary Authority Trading Standards Partners at Salford City Council, on behalf of the Greater Manchester Regulatory Centre of Excellence, and the Shared Regulatory Services of Bridgend, Cardiff and the Vale of Glamorgan.

The aim of this guidance is to help retailers of alcohol achieve operational compliance with Licensing requirements and to help them operate in a socially responsibility manner.

While the Retail of Alcohol Standards Group encourage retailers of alcohol to consider and implement the recommendations contained in this guidance, operating in accordance with the recommendations does not confer immunity from enforcement action should offences be committed. Businesses should ensure that they are aware of and comply with the legal requirements expected of them. They should operate in accordance with any conditions that are included on their premise licence as well as upholding the general licensing principles and ensuring they trade in a socially responsible manner.

Following the recommendations in this guidance does not guarantee that a defence of 'taking all reasonable steps and exercising all due diligence' will be satisfied. What would be considered as 'reasonable' steps will vary from business to business and can only be decided by a court. Factors such as a business's size and resources will be taken into consideration when determining what is 'reasonable' for a business.

When trying to satisfy a reasonable steps and due diligence defence, it is crucial that businesses take positive action. For specific advice relating to your business model and the goods you deliver, we recommend speaking to your local authority.



Legislation and guidance around sales of alcohol in England and Wales

What does the law say about online sales of alcohol?

Online sales of alcohol are governed by the same rules as face-to-face sales of alcohol i.e., sales within a shop or in a bar.

In the UK there are three different Acts that govern the sale of alcohol:

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

Please note: 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.

Please note: The information contained within this guide relates to sales of alcohol from businesses that operate under English and/or Welsh premise licences only.

What is an online sale?

An online sale is a sale conducted electronically on the internet. In this guidance we specifically mention 'online sales', however, the information included, and best practice suggested will apply to any 'remote' sale i.e., any sale conducted over the telephone, by catalogue or any other method where a sale takes place otherwise than when the seller and the purchaser are face to face.

The Licensing Act 2003

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.

Sale of alcohol to children

Section 146 of the Licensing Act 2003 (2003 Act) states that:

A person commits an offence if he sells alcohol to an individual aged under 18.

If an offence takes place, there is a defence for that person to show that, *'he believed that the individual was aged 18 or over, and either he had taken all reasonable steps to establish the individual's age, or nobody could reasonably have suspected from the individual's appearance that he was aged under 18'*.

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.

The legislation on the sale of alcohol in England and Wales

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

Reasonable steps

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

Taking reasonable steps means 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. Details of when verification checks are required will depend on how a business operates.

Due diligence

Where a person is charged with an offence by reason of the act or default of another person, it is a defence to show that the accused exercised all due diligence to avoid committing it, but what is due diligence?

Exercising all due diligence may include:

- 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.
- Keep signed and dated records of all staff training undertaken.
- Putting in place periodic or even constant monitoring.



Legislation and guidance around delivery of alcohol in England and Wales

What does the law say about deliveries of alcohol to children?

S.151(1) of the 2003 Act deals with delivery of alcohol to children and states that:

A person who works on relevant premises..., whether paid or unpaid, commits an offence if they knowingly deliver alcohol to an individual aged under 18.

However, subsection 6 of s.151 states that an offence of delivering alcohol to a minor does not take place when a sale is made to an adult and the alcohol is delivered to their home or place of work.

This then follows that it is an offence to deliver alcohol to a minor if the delivery was not to the purchaser's home or place of work e.g., a delivery made to a park where a picnic was taking place. If alcohol was delivered to a minor in this scenario, an offence of delivering alcohol would be committed.

We should also consider the offence of s.146 of the 2003 Act (the sale of alcohol to children) as part of a s.151 offence – if the purchaser is under 18 and no age verifications are carried out prior to the sale and subsequent delivery, there is the potential for offences to have been committed under s.146 if that purchaser is a minor. In this case, an offence of delivery to a child would be a subsequent offence. If age verification checks are carried out prior to the sale and delivery, the likelihood is that no offence under s.151 will have been committed due to the delivery being exempt by virtue of s.151(6) above.

As each business model is unique, there will invariably be multiple parties involved in the purchase and delivery of alcohol. If alcohol is delivered to a minor, the courts will decide which parties have committed the offence. However, the purpose of this guide is to promote the responsible retail alcohol which includes the need for age verification (either at purchase and/or on delivery). Businesses should consider whether they need to seek independent legal advice relevant to their own business model.

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010, as amended introduced conditions that apply to all licensed premises in England and Wales. The conditions apply equally to the on and off trade. They also apply to companies that sell alcohol remotely.

The Order requires all businesses that sell or supply alcohol to have an age verification policy relating to that business and the supply of alcohol is carried on in accordance with that age verification policy. 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 over as pre-paid credit cards are available to those under 18 years of age and there is currently no way for banks to verify if a card holder is 18 or over.

The age verification policy should, as a minimum, *require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.*

An example of an age verification policy can be found [here](#)¹

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

Legislation and guidance around delivery of alcohol in England and Wales

Examples of acceptable ID include photo card driving licenses, passports, military identification or proof of age cards bearing the PASS hologram, although other forms of ID which bear the holder's photograph, date of birth, and either a holographic mark or ultraviolet feature are also acceptable.

Please note: The mandatory condition requiring individuals who appear to be under the age of 18 year to produce proof of age does not exclude best practice schemes such as Challenge 25 being applied instead. Challenge 25 provides a greater buffer for staff and delivery drivers when assessing a person's age.

Sale of alcohol v being 'served' alcohol

There is further confusion over the requirements of delivering alcohol to minors as the Mandatory Condition Order above requires that age verification takes place before a person is 'served' alcohol, if they appear to the responsible person² to be under 18. Compare this to the 2003 Act that talks about the 'sale' and 'supply' of alcohol.

The definition of 'sale' in the 2003 Act

It is easy to identify when the 'sale' takes place for face-to-face purchases of alcohol, this is when a consumer hands over payment for the product(s) and this payment is accepted. It's less clear when the 'sale' takes place for online and other remote sales. To help clarify this, non-statutory explanatory notes in the 2003 Act confirm:

where the place where a contract for the sale of alcohol is made is different from the place where the alcohol is appropriated to the contract....for the purposes of this Act the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract.

For example, when alcohol is bought via mail order or a telephone call centre, the sale will, for the purposes of the Act, have taken place at the warehouse from which the alcohol would be delivered, and not the call centre. The requirement for a premises licence will therefore apply to the warehouse rather than the call centre.

For distance sales, this means that the sale does not take place when customer 'checks out' and provides their payment details, but instead takes place when the goods are selected and dispatched to the customer. It also means that a sale does not take place at the time of delivery of the goods.

Revised Guidance issued under section 182 of the Licensing Act 2003 addresses the term 'served' from the Mandatory Conditions Order and applies this to online sales. The s.182 guidance requires licence holders to:

- Consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales

² S.153(4) 2003 Act "responsible person" means - (a) in relation to licensed premises - (i) the holder of a premises licence in respect of the premises, (ii) the designated premises supervisor (if any) under such a licence, or (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor,

Legislation and guidance around delivery of alcohol in England and Wales

made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales should comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is 'served' alcohol.

- Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point, but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18.
- Also, consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, 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 less than 18 years of age.

Summary

- The legislation creates an offence for any person that sells alcohol to a minor, unless they can show:
 - that they believed the person was 18 or over, and
 - that they had either taken all reasonable steps to establish the individual's age, or
 - that nobody else would have reasonably suspected the person to be under 18.
- 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.
- The legislation does not make delivery to a minor an offence when the sale was to an adult and the delivery made to that adults home or place of work.
- Age verification is required when the age of the purchaser is in doubt. All licensed premises should have an age verification policy that relates to those premises. Retailers may also have their own voluntary policies on this e.g. Challenge 25. Adopting Challenge 25 is one way to help satisfy a due diligence defence should alcohol be sold or delivered to a minor.

Online retailers should have a clear policy and processes in place to ensure that sales of alcohol are not made to minors.

- Age verification can be done at different times and at multiple stages throughout the sales process.
- There is no legal duty for distance sellers to verify a person's age at the point of delivery if:
 1. Age verification checks have been carried out prior to delivery and confirm that the purchaser is at least 18 years of age; and
 2. The delivery is made to a person designated safe place; or
 3. The delivery is made to the purchaser's home or place of work. However, if the customer is present and appears to be under the age of 18, the mandatory condition in relation to age verification would apply to the delivery operator.

Business models identified selling and/or delivering alcohol via distance means

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

This guidance identifies 4 main business models that offer the sale and/or delivery of alcohol to consumers:

1. Non-Market place model.

RASG store-based members who offer groceries via their own websites, and RASG online specialist members fall within the non-marketplace model.

Businesses that operate in this model:

- Have their own premises.
- Have a premise licence relating to that premises.
- Own the goods that they sell.

Drivers can be:

- Employed.
- Self-employed.
- Workers.
- Third-party contractors.
- A combination of the above.

Deliveries can be made to:

- A person.
- A customer's nominated safe place for delivery.

These delivery options are discussed in more detail in the next chapter.

Liability for selling alcohol to minors lies with these businesses. If alcohol is sold to a minor the potential repercussions are twofold:

- Formal action may be taken for breaching the Licensing Act 2003.
- Your premise licence may be reviewed, amended or revoked.

If alcohol is delivered to a minor but the sale is confirmed to have been to an adult and the delivery was to that adult's home or place of work, subsection 6 of s.151 of the 2003 Act applies so there would be no offence of delivering alcohol to a minor. If the delivery is made to a place other than the adult's home or place of work and is delivered to a minor, offences of delivering alcohol to a minor would have occurred. As each business model is unique, there will invariably be multiple parties involved in the purchase and delivery of alcohol. If alcohol is delivered to a minor, the courts will decide which parties have committed the offence.

Business models identified selling and/or delivering alcohol via distance means

2. Market place model.

RASG App based businesses fall within the market place model.

Businesses that operate in this model:

- Do not have their own premises or premise licence.
- Act as an 'agent', introducing customers to retailers/restaurants.
- Do not own the goods that they advertise for sale via their platform.

Drivers tend to be self-employed.

Deliveries:

- Should always be to the person who placed the order.
- Should not be left on the doorstep.

Drivers are advised to return the goods to store if a delivery cannot be made.

Liability for selling alcohol to minors lies with the business that holds the premise licence, not the app/web-based business via which the order is placed.

If alcohol is delivered to a minor but the sale is confirmed to have been to an adult and the delivery was to that adult's home or place of work, subsection 6 of s.151 of the 2003 Act applies so there would be no offence of delivering alcohol to a minor. If the delivery is made to a place other than the adult's home or place of work and is delivered to a minor, offences of delivering alcohol to a minor would have occurred. As each business model is unique, there will invariably be multiple parties involved in the purchase and delivery of alcohol. If alcohol is delivered to a minor, the courts will decide which parties have committed the offence.

3. Intermediary model.

RASG does not have any members within the business model.

Businesses in this model offer alcohol (and other goods) to consumers but do not own the goods at the time the customer orders them. Instead, orders and payment are taken ahead of the goods being purchased from a third party e.g., a supermarket and/or restaurant.

Liability for underage sales lies with app/web-based business. These sales are classed as 'retail sales' and so are covered by the provisions of the 2003 Act. A premise licence and personal licence is required by the app/web-based business.

4. Collection service model.

RASG does not have any members within the business model.

Businesses in this model offer a collection service only. They are not involved in the sale of alcohol; they simply collect orders on behalf of customers and deliver the orders.

Business models identified selling and/or delivering alcohol via distance means

If you are considering adopting this type of business model, RASG suggest you seek independent legal advice from your local licensing authority as any duties and liabilities you may have under the 2003 Act.

Third party call centres

Where a third-party call centre acts independently of any retail business, simply taking orders and passing customer details on to a retailer who then fulfils the order, the 2003 Act states, that the sale takes place once the details have been received by the retailer's warehouse/dispatch centre. As such, for the license holder to fulfil the defence that they 'believed' the purchaser was at least 18 years old, we recommend that one of the following safeguards be taken:

- The license holder includes terms in their contract with the third-party call centre that they carry out age verification checks and pass on sufficient evidence to show that the purchaser is at least 18.
- If the call centre cannot carry out age verification checks, they make it clear to customers that age verification has yet to take place and if a purchaser is unable to provide proof that they are over 18 if challenged, the alcohol will not be handed over on delivery.



Regardless of which business model you fall into, steps should be taken to avoid sales and deliveries of alcohol to minors. These steps will vary from business to business and will depend on several factors, the most pertinent of these being at what stage age verification is undertaken and whether deliveries are made to a person.

Whether alcohol is delivered by a provider's own delivery service, a self-employed delivery driver or a third-party delivery service the same challenges, in relation to underage sales, apply to all.

Universal checks and precautions for all business models

RASG members employ a combination of actions at key customer 'touch points' to ensure that alcohol is not sold or delivered to minors and advise all businesses that sell and/or deliver alcohol to do the same. The touch points have developed over 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.

Checks to consider before an order is placed

A business might consider all or any of the following **before an order is placed**:

- **Set the tone of your businesses approach to alcohol sales and deliveries.** While it is not an offence to allow minors to browse websites or search apps that sell alcoholic beverages, consider including an 'age gate*', asking people to either confirm that they are over 18, or to enter their date of birth when they land on your site. Information and age verification steps at the stage of browsing is an important step in setting a business's approach and could be seen as a simple deterrent.

* **Please note** that 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.

- **Utilise age verification technology.** 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.
- **Display social responsibility messaging.** Place Drinkaware* branding on your website/app and a link to bedrinkaware.co.uk.

***Please note** that there is a fee associated with Drink Aware branding and/or their website address. For more information, please contact [Drink Aware¹](http://DrinkAware1)

- **Include the terms and conditions for alcohol purchases on your site.** Develop a clear policy in relation to the sale of alcohol online and make this available publicly on your website/app or as part of your website/app terms and conditions.

Checks to consider when an order is placed

A business might consider all or any of the following **when an order is placed**:

- **Mandatory account set-up.** 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.

Selling alcohol, the options

One or more of the following additional checks could be carried out on any personal data entered when creating an account:

- **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 commercial provider, who can and confirm 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.
- **Age verification checks.** 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. PAS 1296:2018 is a Code of Practice for Online Age Verification service providers developed by the British Standards Institute and the Digital Policy Alliance. The PAS – a Publicly Available Specification – is intended to assist providers of age restricted products and services online with a means to adopt and demonstrate best practice and compliance when it comes to age checking. It helps businesses comply with regulation, and safeguard their reputation, by providing recommendations that help prove an online user's age. The standard addresses issues relating to privacy, security, safety, usability, accessibility and data protection online. 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>
- **Monitor “alcohol only” baskets.** If possible, businesses should monitor “alcohol only” baskets for unusual purchasing patterns and possibly set up some “red flag” algorithms.



It is a criminal offence to sell alcohol to a person under 18. Under the 2003 Act, a sale takes place when the goods are appropriated to the contract i.e. when the alcohol is selected for dispatch to the customer. This definition of 'sale' is not very helpful when selling via distance means as retailers cannot visually determine the age of the purchaser prior to delivery. In reality, this visual verification for distance sales is undertaken by the courier, and is therefore in person, but just not at the time of the 'sale'.

A strict interpretation of the 2003 Act means that to avoid the commission of an offence of selling alcohol to a minor a business would be required to carry out age verification checks at the time that an order is placed. This does not always happen as businesses do not always have the means or the resources to do so. The crucial thing is that age verification should take place when the age of the customer is in question. To satisfy this requirement businesses tend to opt for one of the following approaches, or a combination of both:

- 1. Upfront age verification checks.** Robust age verification checks will be carried out at the time of setting up an account/placing an order. These checks will invariably use third party providers to verify that the person making the purchase is over 18 years old and therefore no offence of selling to a minor is committed.
- 2. Age verification on delivery.** Businesses that opt for this option will invariably not carry out age verification before the point of delivery (albeit some will). Although technically a sale may have been made to a minor if no age checks are carried out prior to delivery, delivery is the last point at which you can prevent minors from obtaining alcohol. Although a sale may have taken place, if alcohol is not handed over on delivery the licensing objective of protecting children from harm has been satisfied.

If carrying out age verification on delivery only, businesses should apply a risk-based approach and should have robust measures in place at point of delivery.



The majority of RASG online specialist retailer's sales fall within this category. Our online specialists offer two options for delivery:

1. Delivery to a person.
2. Delivery to a 'customer's designated safe place'.

Delivery to a person – when using employed delivery staff

While the law does not require ID checks to be made at the point of delivery, where age verification has been checked at the time of the sale, the tone of guidance suggests that it may be best practice to do so.

Our online specialist members carry out detailed and robust age verification checks on all customers before an online order is delivered. Despite this, when delivering to a person, and when the delivery is made by an employed member of staff, RASG members will also:

- Employ a selection of the universal checks and precautions for all business models as detailed above.
- Train their drivers on the businesses age verification policy. This will include providing educational material and guidance on what are acceptable forms of ID and what to do if age is in doubt and ID cannot be provided.
- Train their drivers on how to identify proxy sales, again with instructions not to leave alcohol if they suspect this is the case.
- Train drivers not to leave alcohol with someone who is already intoxicated and ensure that drivers are aware of how to identify someone who is already under the influence of alcohol.
- Train delivery drivers on how to manage difficult situations and conflict whilst delivering a great customer experience.
- Provide drivers with handheld devices and/or software that prompt them to request ID when delivering alcohol. Some prompts have an age 18 date of birth embedded to make the ID check easier.
- Enable customers to contact customer services in case of issues.
- Have a process that allows drivers to feedback concerns or comments after a delivery takes place. Have a process to review customer feedback and complaints to highlight issues with the delivery of alcohol.

Delivery to a person – when using independent/self-employed delivery drivers

When using independent contractors, it is important to note that not all will offer an age check service. Where age verification checks have been carried out prior to delivery, this is not a major issue, however, RASG advise, where possible, that you:

- Request that the delivery driver carries out age verification on the doorstep. This would normally be stipulated in contract terms and conditions.
- Make delivery drivers aware of your businesses policies when it comes to delivering alcohol.
- Provide access to information on how to verify age on delivery and what to do with the goods if delivery is refused.
- Provide storage for any goods that cannot be delivered.
- Choose a delivery partner that can demonstrate that their delivery drivers are educated regarding the basic legal and social responsibility issues when delivering alcohol i.e. to ask for age verification if they believe a person to be under 18, what types of ID are acceptable, to not deliver alcohol if ID cannot be provided when requested, not to leave alcohol with someone who is intoxicated, how to identify **17**

Upfront age verification checks

someone who is under the influence of alcohol. It is advisable that this is included within the terms of the contract with your provider. Ensure that your businesses age verification policy is available to all delivery drivers/delivery companies so that they understand what is and isn't acceptable to you when delivering alcohol.

- Have a process that allows drivers to feedback concerns or comments after a delivery takes place.

Whether using employed drivers or couriers, if a delivery is made to an adult, who is not the purchaser 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 alcohol is delivered to a minor but the sale is confirmed to have been to an adult and the delivery was to that adult's home or place of work, subsection 6 of s.151 of the 2003 Act applies so there would be no offence of delivering alcohol to a minor. If the delivery is made to a place other than the adult's home or place of work and is delivered to a minor, offences of delivering alcohol to a minor would have occurred. As each business model is unique, there will invariably be multiple parties involved in the purchase and delivery of alcohol. If alcohol is delivered to a minor, the courts will decide which parties have committed the offence.

Delivery to a 'customer's designated safe place'

The 2003 Act does not require deliveries to be made to a person. Where age verification checks have taken place prior to delivery, there is no legal obligation to check on delivery. If alcohol is sold to an adult but handed over to a minor, when delivering to the purchaser's residence or place of work, no offences have been committed.

Approximately 80% of the RASG's online specialist members deliveries are made to a customers designated safe place. These deliveries are known as a '**Customer's designated safe place delivery**'. This is a delivery option that offers consumers flexibility as to when and where they receive their goods. Consumers have the choice of having their goods delivered even if they are not going to be home to receive them. The customer will nominate a 'safe place' that the goods can be delivered to.

To offer this service, RASG members will have addressed the 4 key areas detailed below to ensure that no offences are committed, and to ensure that these deliveries pose no additional risks to minors than those presented by deliveries that are made to a person.

1. Stringent age verification checks are carried out on purchasers at the time of setting up an account and/or at the time of placing an order.

2. Businesses have internal policies detailing what can and can't be deemed a safe place for delivery. Basics rules include:

- Alcohol should not be left out in the open where they are visible to passing consumers.
- Alcohol should not be left within a specified radius of a school or nursery.

Delivery drivers always have the option to take goods away with them if they feel that it is not safe to leave the alcohol in the place designated by the customer.

3. Additional safeguards, in addition to online age verification and internal policies, will be employed to ensure the safety of these deliveries:

- Customers will be alerted, via text or email, when the delivery has been made. A customer must opt out of this service if they do not want this alert system.
- A photo of the product in situ will be taken to show compliance with the customer's request.

Upfront age verification checks

4. Risk assessments would have been carried out on the risks associated with these deliveries. As part of the risk assessments, issues such as the types of goods on offer and the demographic profile of consumers would be considered.

Due to the 4 areas identified above, RASG members do not deem deliveries to a customer's designated safe place to present a higher risk of sales/deliveries to minors than those presented when delivering to a person. This is because:

- The profile of their customers are typically professionals, aged 45 plus with a good household income
- The cost of the average single bottle of wine is higher than from a retail premises.
- These businesses are subscription-based, relying on relationships and repeat business.
- There is a delay from order to delivery. Generally, underage drinkers have a more immediate requirement than the service offered by these specialists.
- The quality of the products on offer would not be the alcohol of choice for most underage drinkers.



Deliveries when age verification checks have not been carried out prior to delivery

Age verification should be done on delivery if no age checks have been carried out prior to this. The doorstep is the last place that you can ensure a sale to a minor is not made. Age verification should take place at this stage, whether the delivery driver follows Challenge 25 or simply confirms that the person receiving the goods is over 18. See <https://rasg.org.uk/about/>

Businesses that employ their delivery drivers and use their own vehicles have the most control over how age verification is carried out on delivery.

When using a third party, you would need to have an agreement with the courier to undertake age verification of the named person with instructions of not to deliver to any other person and or place.

No matter the delivery method, when relying on age verification on delivery the purchaser of the alcohol should be present. If they are not, the alcohol should not be left in a safe space, left with a neighbour or with any other person. If it was, the retailer would not be able to prove that they had taken all due diligence to avoid an underage sale if one was made.

When relying on age verification at point of delivery, drivers should:

- Deliver to a person.
- Verify that person's age if they are unsure that they are over 18.

This can be difficult for smaller businesses that rely on third party delivery contracts as this will present an increased cost.

When relying on age verification at point of delivery, drivers should not:

- Leave the alcohol in a safe space.
- Leave the alcohol with a neighbour.
- Leave the alcohol with any other person, who is not the purchaser.

If this was the case, and a sale was deemed to have been made to a minor, the retailer would not be able to prove that they had taken all due diligence to avoid committing this offence.

Additional checks employed by store based RASG members

In addition to implementing a selection of some of the universal checks identified above when customers are browsing a website/app and before they can place an order, RASG store-based member businesses employ a combination of the following. They:

- Have internal policies that restrict deliveries to a person only.
- Operate Challenge 25.
- Train their drivers in Challenge 25 and the acceptable forms of ID, explaining that if the customer cannot provide ID, then the alcohol cannot be left with the customer. If ID is not presented some retailers will remove the specific age restricted items while others will remove the whole order.
- Train their drivers on how to identify proxy sales, again with instructions not to leave alcohol if they suspect this is the case.
- Train drivers not to leave alcohol with someone who is intoxicated and ensure that drivers are aware of how to identify someone who is already under the influence of alcohol.
- Train drivers on how to manage difficult situations and conflict whilst delivering a great customer experience.

Deliveries when age verification checks have not been carried out prior to delivery

- Provide drivers with handheld devices that prompt them to request ID when delivering alcohol. Some prompts have an age 18 date of birth embedded to make the ID check easier. Handheld devices also capture challenges and refusals made by drivers for monitoring purposes.
- Provide drivers with clear prompts on packing/route lists or delivery manifests that identify whether the delivery contains alcohol.
- Enable drivers to provide customers with a customer service contact for support in case of issues.
- Have a process that allows drivers to feedback concerns or comments after a delivery takes place.
- Have a process to review customer feedback and complaints to highlight issues with Challenge 25 or delivery of alcohol.

Additional checks employed by ultra-fast app RASG members

RASG welcomed our first app-based member in 2022. In addition to implementing a selection of the universal checks identified above, when customers are browsing their app and before an order can be placed, our app-based business employs a combination of the following:

- They have policies that restrict deliveries to a person only (i.e. cannot be left in a safe place).
- They have policies that do not permit goods to be left with anyone apart from the purchaser and at the purchaser's address as entered at the time of placing an order.
- They adopt a more robust age verification policy than Challenge 25, instead adopting a 'Challenge all' approach i.e. everyone is required to provide ID, irrespective of age.

All deliveries are made using self-employed drivers who are provided with educational material and guidance and must complete an informational module and a quiz prior to undertaking deliveries. Software and/or equipment is also provided to help ensure that deliveries are not made to minors.

It should be noted also that delivery drivers must 'opt in' to accept orders that contain alcohol. Those that opt in, can opt out at any time.

Drivers that opt in to deliver alcohol receive educational materials, guidance and testing on the legislative and business requirements when delivering alcohol. Our app-based member has a 100% Challenge policy on delivery of alcohol, meaning that age verification is sought on every delivery, even if the person is clearly over 18.

Drivers also benefit from the following:

- They are provided with educational materials, guidance and tested on Challenge 25 and the acceptable forms of ID.
- All drivers have a handheld device that prompts them to ask for age verification when alcohol is being delivered. When delivering alcohol, drivers are required to verify the age of every person and confirm that this check has been done, via their handheld device, before the alcohol is handed over. If ID cannot be produced, the order cannot be left with the customer.
- They are given guidance and tested on how to identify if someone is already intoxicated. The handheld device offers prompts on this and instructs the driver not to leave the alcohol if this is the case.
- Drivers are advised on how to manage difficult situations and conflict.

It is important to note that our RASG member does not disincentivise drivers not to make deliveries. If a delivery is unable to be made, due to lack of ID or because a customer is intoxicated, drivers are still paid for that delivery and for the return of that delivery to the retailer.

Although there is no evidence of increased risks, all providers of same-day deliveries need 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 have the potential to come under increased scrutiny from enforcement officers and increased use by minors. It is therefore important for businesses that operate in this market to follow the best practice steps detailed throughout this guide and those adopted by RASG members. Special care should be taken to verify the age of the customer as well as the recipient of alcohol. We advise all businesses to look out for:

- Young people at a party or any other location where alarm bells are raised for a delivery to be taking place. Increased risk indicators due to the time of year e.g. end of GCSEs and A-Levels and summer holidays.
- Whether the products being delivered particularly appeal to young people.

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.





This guidance has been produced by the Wine and Spirit Trade Association (WSTA) in collaboration with our Primary Authority Trading Standards Partners at Salford City Council, on behalf of the Greater Manchester Regulatory Centre of Excellence, and the Shared Regulatory Services of Bridgend, Cardiff and the Vale of Glamorgan.

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