

# Underage Sales Test Purchasing Policy

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Delivering for Croydon

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# Underage Sales Test Purchasing Policy

## 1. About this Policy

1.1. This policy applies to the test purchase of any age-restricted product including but not restricted to knives, alcohol, tobacco products, nicotine inhaling products ('vapes') corrosives, solvents, spray paints and fireworks. It sets out the approach to be adopted when dealing with retailers of age restricted products and addresses the application of the Regulation of Investigatory Powers Act 2000 (RIPA) to test purchasing operations.

## 2. Test Purchasing

2.1. Trading Standards Officers work with young people to conduct test purchases both online and at bricks and mortar premises to ensure retailers comply with the law in respect of age-restricted products. These tests are usually undertaken where intelligence indicates that the retailer has either sold age-restricted products to a minor, where minors are known to have acquired age-restricted products through a variety of online sources, where the retailer has previously sold when tested by us, where a retailer has declined the opportunity of attending training, or where it is considered that the borough as a whole is a 'hotspot' area. The intelligence we use comes from a variety of sources such as consumer complaints, local police and other partners.

## 3. Trader advice regarding the sale of age restricted products to minors

3.1. Business advice is available on the London Borough of Croydon Trading Standards website <https://www.croydon.gov.uk/advice/tstandards/age>

or by telephone on 020 8407 1311. Croydon based small and medium sized businesses are also invited to free of charge training. The training includes the provision of advisory notes and guidance in respect to sales of age-restricted products. One key focus of this advice is to recommend traders require 'proof of age' before making a sale rather than simply asking how old someone is or judging their age by appearance. This step will form part of the retailers "due diligence & reasonable precautions" defence if a genuine mistake is made. We also encourage the implementation of voluntary policies such as the 'Challenge 25' initiative whereby if a customer wishing to buy an age restricted product does not appear to be over 25 then ID proving they are over 18 must be requested by the cashier.

## 4. Trading Standards Operational Procedure

4.1. Guidance is given in respect of undertaking test purchasing operations:

4.1.1. Code of Practice: Age Restricted Products published by BIS/BRDO in 2014

4.2. In the London Borough of Croydon the young test purchaser is generally instructed to be honest if asked for their age when attempting to purchase age-restricted products at a bricks and mortar store. In relation only to an online sale, where necessary we will instruct the test purchaser to state they are older (ie to give the legal minimum age for the age restricted product in question) in the following circumstances:

- Where we have information that a trader is selling age-restricted products and in order to enable us to check that adequate steps are in place to prevent a sale to a person under the age of 18 and
- The young person's parent has given consent for the young person to say they are the legal minimum age for purchasing the product in question, and
- The young person consents to stating they are the legal minimum age for purchasing the product in question, if required.

4.3. If these criteria are met then when testing the premises, the young person is instructed to say, if asked, that they are the legal minimum age for purchasing the product in question by either ticking a box to state that they are the legal minimum age and or by manually entering a date of birth consistent with the legal minimum age for the age restricted product in question.

4.4. This has become necessary because there are a number of online traders who are taking insufficient or no proactive steps to avoid selling an age-restricted product to a child and rely on a purchaser to tell the truth when making a purchase. We feel that in order to reflect 'real life' purchasing attempts it is appropriate under these controlled conditions to allow a purchaser to state that they are older than they actually are. It would be impossible to test online traders if we did not adopt this policy.

## **5. Application of RIPA**

5.1. The BIS/BRDO guidance states that an enforcing authority should consider the statutory requirements for authorisation under RIPA when conducting test purchase operations. The application of RIPA to test purchasing has been debated for some time with guidance and clarification being sought from a number of sources:

5.1.1. The Home Office Code of Practice for Covert Surveillance and Property Interference (December 2014) states "if the test purchaser is wearing recording equipment and is not authorised as a CHIS, or an adult is observing, consideration should be given to granting a directed surveillance authorisation".

5.1.2. We consider that the operations that we undertake are 'overt' operations. Our test purchasers do not wear covert recording equipment and all retailers who are likely to be included in a test purchasing session are given advance warning of the fact that test purchasing will be taking place within the next 90 days and that they should consider their premises to be one of the ones to be included.

5.1.3 In relation to any online test purchases of age-restricted products, we will inform a retailer in advance that a test purchase may be made from their site within the next 90 days.

5.2. We have concluded that any surveillance undertaken under the Council's usual practices for undertaking age restricted goods test purchasing operations will be unlikely to result in acquisition of private information such as to render the activities unlawful if an authorisation for directed surveillance is not obtained. On this basis the Council has concluded that it will not seek RIPA authorisation for test purchasing operations for age-restricted goods unless there is a specific reason concerning a particular proposed operation. This might include the formation of a long term customer relationship between an individual and a retailer, operations over a sustained period or the particular characteristics of particular premises.

5.3. In accordance with the BDRO Code (Age Restricted Products and Services – April 2014) and the Home Office Code of Practice for Covert Surveillance and Property Interference (December 2014) an assessment as to whether RIPA approval is required will be undertaken prior to each test purchase operation and the decision recorded.