

From: Love Doug: H&F <Doug.Love@lbhf.gov.uk>
Sent: Wednesday, August 9, 2023 12:54 PM
To:
Cc:; Licensing HF: H&F <licensing@lbhf.gov.uk>; AWMailbox.licensing <AWMailbox.licensing@met.police.uk>
Subject: All in 1 Vapes / Off Licence, 202 Uxbridge Road

Hello, Ali.

I am from LBHF Trading Standards and I am the officer who leads on our role under the Licensing Act, as well as on age-restricted products, vapes and illicit alcohol and tobacco.

I have read your application for the above premises, which appears to be reasonably comprehensive: the only comment I'd make is that condition 5 on training is a little lacking in detail and I would invite you to accept these conditions in place of that one:

- At least one member of staff on duty whilst this licence is being used shall be trained in the requirements of the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers on the Licensing Authority upon request.
- All staff responsible for selling alcohol shall receive relevant training before making any unsupervised sales, including on:
 - the Licensing Act 2003 in terms of the licensing objectives and offences committed under the Act;
 - the conditions of the Premises Licence
 - the sale of age-restricted products.This training will be refreshed at least at least every six months. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to police and authorised officers of the Licensing Authority upon request.
- Age-restricted products training shall cover the following steps: the assessment of age; how and when to challenge for proof of age; acceptable proof of age and how to check; and recording refusals.

My main purpose for contacting you, however, is to ensure that you have our current guidance on vapes and are aware of the training we offer.

Please find, attached:

- Two guidance letters – one on vaping products in general (see Section five for information about disposable vapes) and one specifically on vapes. Please read the guidance – if you have any questions, you can ask me for further explanation – and be aware that we do a lot of work on vapes and preventing the underage sale of them: it is very important that you get it right from the moment you open, as if any illegal vapes are found, or a sale is made to someone underage, it will be treated very seriously.

- Information on training that we provide. If you have not run a licensed business before, I would strongly recommend attending the next session in September; even if you are experienced and confident in running an off licence legally, it will show you the standard that LBHF expect you to reach, so I would still encourage attendance. You can send staff, if you wish, but the main purpose of the sessions are to equip business managers with the knowledge and materials to train their own staff effectively.

I've cc'd Manpreet, as well as the LBHF and Police Licensing teams into this e-mail.

Kind regards,

Doug

Doug Love
Lead Practitioner, Trading Standards
Hammersmith & Fulham Council
Hammersmith Town Hall, W6 9JU

Business Guidance

Nicotine Inhaling Products

1. Introduction

Since 2016 there have been rules in place relating to the labelling, the concentration of nicotine, the size / capacity and the notification of Nicotine Inhaling Products (NIPs), such as e-cigarettes and e-liquids. If illegal products are found at your business, officers will seize them and you may be prosecuted.

Products that do not contain nicotine – typically marked “0% nicotine” or “Nicotine free” - are not covered by these rules.

2. Labelling

REQUIRED INFORMATION MUST BE PRESENT.

NIPs must carry a health warning which states:

“This Product contains nicotine which is a highly addictive substance”.

A statement showing the concentration of nicotine in the product expressed as mg/ml is required.

A **GB name and address must be shown** on products produced after 01/01/21, to allow the product to be traced back to the person responsible for placing it on the British market. On older stock an address in any EU member state is currently permitted, to allow the product to finish moving through the supply chain. It is likely that this ‘sell-through’ period will finish at the end of 2022.

Any product containing nicotine must also carry the warning labels required by the **Classification, Labelling and Packaging Regulations** which deal with hazardous chemicals. These warning diamonds may vary depending upon the quantity of nicotine in the product.

3. Strength and size restrictions

The maximum permitted concentration of nicotine in a NIP is **20 mg/ml**, sometimes described as 2%.

Refill containers containing nicotine must contain no more than 10ml and vaping equipment must have tanks no greater than 2ml.

4. Notification process

ALL EQUIPMENT AND PRODUCT REFILLS MUST BE ‘NOTIFIED’.

All equipment and product refills are required to be **notified** to the Government by the manufacturer / importer. It is illegal to sell a product that has not been notified. The list of notified products is available here: [ECIG Search Page | MHRA](#).

5. Disposable e-cigarettes

Many illegal disposable e-cigarettes appeared on the market during 2021. They seemed to be sold by people calling at the shop, or without proper paperwork and some or all of these applied:

- They had not been notified;
- Their capacity exceeded the maximum of 2ml (**equivalent to about '600 puffs'**);
- The maximum permitted nicotine concentration (20mg/ml) was exceeded.

The concentration always seems to be stated on the labelling of disposable e-cigarettes. The capacity, in ml, is normally stated on labelling, although it is not always. If the only capacity indication given is in 'puffs', you should not buy items declaring more than 600 puffs.

Since December 2021 and March 2023, LBHF Trading Standards have made 52 seizures of over 6,000 of these items, with a total selling price of around £42k from vape suppliers in the borough. Not a single invoice that shows responsible purchase has been produced.

6. What will happen if I have illegal products in my shop?

The **items will be seized** if an officer from Trading Standards finds them. We cannot allow non-compliant goods to remain on the market, so requests to keep them to return to the supplier or keep them 'for personal use' will be refused.

Where businesses provide details of their supplier and evidence of the supply (eg. valid invoices), we will investigate the supplier and, where we believe the retailer has been genuinely misled, encourage them to give a refund. Those who cannot are likely to be investigated themselves.

The **owner of the shop could be prosecuted**. This is more likely to happen if the owner cannot show invoices or other evidence of responsible purchase.

NEVER BUY GOODS WITHOUT DETAILED INVOICES, GIVING THE TRADER DETAILS AND A FULL DESCRIPTIONS OF THE ITEMS BOUGHT, OR WHEN YOU ARE UNABLE TO VERIFY THE SUPPLIER IS A GENUINE BUSINESS. It is highly unlikely that anyone, other than reps from established companies, who brings goods to the shop to sell are selling legal goods.

7. Age restrictions

YOU MUST NOT SELL ANY NIPs TO ANYONE UNDER THE AGE OF 18. You should require proof of age from any customer you think is less than 25 before you sell.

Although it is not a legal requirement, **we recommend that you voluntarily introduce an 18-year-old minimum age for nicotine free liquids.** We suggest this so that you have one rule for all your products, minimising the risk of an accidental sale, and to protect children who may otherwise go on to try addictive nicotine products.

8. How can I get further advice?

If you require further information, clarification or advice on any of the above, or would like us to check any goods, please do not hesitate to contact the Trading Standards Service at:

LBHF Trading Standards, Hammersmith Town Hall, W6 9JU

Tel: 020 8753 1081 (LBHF)

Email: trading.standards@lbhf.gov.uk

Disposable nicotine vapes

1. Introduction

This guidance was produced as a result of the appearance and popularity, particularly among young people, of disposable nicotine vapes and the high level of offending by retailers in the borough.

The guidance concentrates on avoiding underage sales and product legality. More general information on vapes and all other 'Nicotine inhaling products' is available in a separate business guidance sheet.

It is a retailer's responsibility to avoid committing offences and they should be proactive in seeking to do so. Reading and understanding this guidance will be a start in doing this.

2. Underage Sales

YOU MUST NOT SELL NICOTINE VAPES TO ANYONE UNDER THE AGE OF 18. Yet over one-quarter of test purchases of vapes by underage volunteers in LBHF has resulted in a sale. **This is far from acceptable.**

Young people are increasingly using vapes and although the long-term consequences are not fully understood, even short-term use will lead to nicotine dependency and adversely affect concentration, learning ability, mood and memory.

Consequently, the Council will take a harsh view of any business that does sell and, unless you have taken all reasonable precautions to avoid the offence and have taken care to monitor the effectiveness of these precautions, you, as well as the employee that sells, will be investigated and can expect formal enforcement action to be taken against you.

The main thing you must do is to ensure that all your staff know the following:

THAT THEY MUST REQUIRE AND CAREFULLY CHECK ID FROM ANYONE THEY BELIEVE TO BE UNDER 25 YEARS OF AGE BEFORE SELLING THEM A NICOTINE VAPE

This is called the '**Challenge 25**' rule, and your employees must be able to understand and implement it. If they are not, you are at risk of committing an offence.

A simple test – one which Trading Standards Officers often use – is to ask the employee what they would do if a young person tried to buy a nicotine vape: the answer should be "Ask them for ID if I think they are under 25 and check it carefully". Anything else should cause you concern.

There is plenty more information and materials that will help you with staff training here: [Knife Retailer Toolkit \(nbcc.police.uk\)](https://www.nbcc.police.uk). Although that site focusses on the sale of knives, the process, precautions and training forms are the same for all age-restricted goods.

In addition, it is recommended that:

- You treat nicotine free vapes in exactly the same way (even though there is no age-prohibition on these products);
- You display one or more posters explaining the requirement for under 25s to provide ID
- If you do not sell anything other than vapes and vaping equipment, you should consider displaying a sign at the entrance saying anyone in school uniform is not permitted and enforcing this policy strictly.

3. Strength and size restrictions

The maximum permitted concentration of nicotine in a NIP is **20 mg/ml**, sometimes described as 2%.

Disposable must not have tanks greater than **2ml**, which is roughly equivalent to '600 puffs'.

Many oversize / overstrength vapes have been seized in the last 18 months – 6265 from 53 separate seizures up to the end of May 2023. Retailers are asked for invoices or other paperwork from the purchase.

NOT A SINGLE TRADER HAS BEEN ABLE TO PRODUCE A VALID INVOICE, TO DATE.

If you buy any goods without valid paperwork – which clearly identifies the supplier and details the goods purchase – you will be held responsible for them if they are illegal.

4. What will happen if I get it wrong?

Any underage sale, or seizure of illegal goods will be investigated. You will be asked questions under caution and reported for the offence.

There are many possible outcomes: where you can show that you did everything reasonable to avoid the offence, there will be no further action against you. However, where you are not following good practice, you may be prosecuted and if you are convicted, you will have a criminal record and will be liable to pay any fines issued and costs awarded by the court.

We believe it is much wiser to put the effort into getting it right and ensuring you cannot be held responsible for any offence.

5. How can I get further advice?

If you require further information, clarification or advice on any of the above, or would like us to check any goods, please do not hesitate to contact the Trading Standards Service at:

LBHF Trading Standards, Hammersmith Town Hall, W6 9JU

Email: trading.standards@lbhf.gov.uk

Tel: 020 8753 1081

Sign-up for Training

H&F Council's Trading Standards team offers regular low-cost, high-quality face-to-face training to local retailers of age-restricted goods. The sessions are usually held at the Council offices.

The training is intended to equip businesses and their employees with the knowledge and materials needed to ensure they avoid age-restricted sales and manage their businesses well. Feedback from people attending similar sessions previously has been excellent.

The sessions are primarily aimed at owners / managers – with the intention of equipping them to train and manage their staff successfully. They can also be used as part of a training programme for employees – particularly those who may benefit hearing the messages from a different voice.

The course offers attendees

- practical advice on how to avoid underage sales
- helps them to understand the potential consequences of a sale for themselves and the business
- explains how confrontation can be minimised.

Managers should stay for the second part of the course that deals with things they need to know –

- staff training and monitoring
- illegal tobacco and alcohol products
- licensees' responsibilities

We highly recommend that someone – ideally the person responsible for training in the business, but you could send everyone - from every business selling age-restricted goods attends this course.

The cost of the training is as follows:

- **Full price** for the first place, or after an offence or failed 'Challenge 25' test purchase
 - **£40 + VAT (£48) for Part 1 (suitable for employees); & £60 + VAT (£72) for the whole course (suitable for managers and anyone left in charge of the business).**
- **Discounted rate** for all subsequent places taken within 12 months or attendance prior to an offence or failed 'Challenge 25' test purchase
 - **£15 + VAT (£18) for Part 1; £20 + VAT (£24) for the whole course.**

Please see the overleaf for a description of the course content.

Training dates for 2023:

Wednesday 1st February @ 10.30am

Tuesday 25th April @ 1.30pm

Thursday 29th June @ 1.30pm

Monday 18th September @ 1.30pm

Wednesday 6th December @ 10.30am

Sessions last approximately 90 mins for Part 1 and 2 hrs 30 mins for the whole course.

To book:

Phone Doug Love on 07771 806 923

or

E-mail to trading.standards@lbhf.gov.uk

Please provide the names of attendees (in the form they want to use for the certificates) and indicate clearly whether they wish to attend the full course, or just Part 1.

Course elements

Part 1

Introduction: Why underage sales are a high enforcement priority; why avoiding them should be a very high priority for businesses and staff. (10 mins)

Avoiding Underage Sales: The law; how to avoid offences using a three-step approach – *Assess, Challenge, Check* – the importance of Challenge 25, and other precautions. This session is delivered from a very practical point of view – avoiding, for instance, the (widespread) assumption that if staff know they should challenge they will know how to do so, instead discussing (and practising) how to actually do it. (50 mins)

Dealing with Confrontation: A brief session on understanding the causes and effects of conflict (whether originating from a refusal or anything else); how to calm situations; the law relating to self-defence (25 minutes).

(Employees with no management responsibilities can leave here, during a short break)

Part 2

Extra info for Managers: Training, refresher training, reminders; Refusals logs; Monitoring staff; CCTV & panic alarms; Leaving people in charge; Setting an example. (25mins)

(Unlicensed, non-tobacco selling knives / fireworks retailers can leave here)

Illicit Alcohol & Tobacco: Very brief mention of how to identify illicit goods (fuller guidance will be available to take); mostly an appeal for information about sellers and what to look for. (15 mins)

(Unlicensed retailers can leave here)

Licensees' Responsibilities: Why alcohol is licensed and a high priority for local authorities and the Police; SoLPs and the trend towards robustness; the importance of licence conditions; offences and sanctions; Golden Rules for Licensees. (15 mins).

Total course lengths: Approx. 1 hr 30 mins for Part 1; 2hr 30 mins (inc. break) for the whole course.



Location of training: The Clockwork Building, 45 Beavor Lane, W6 (see red pin, above)