

Supplement to the agenda for

Licensing sub-committee

Wednesday 28 March 2018

2.00 pm

**Committee Room 1, The Shire Hall, St Peter's Square,
Hereford, HR1 2HX**

	Pages
4. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF 'PREMIER INN, 16 BLACKFRIARS STREET, HEREFORD. HR4 9HS' - LICENSING ACT 2003	3 - 42

IN THE MATTER OF:

A PROPOSED PREMIER INN, 16 BLACKFIRARS STREET, HEREFORD, HR4 9HS

WHITBREAD GROUP PLC

APPLICANT

WRITTEN SUBMISSIONS ON BEHALF OF THE APPLICANT

1. This is an application for a new Premises Licence pursuant to Section 17 of the Licensing Act 2003 for a proposed 82 bed Premier Inn at the above location.
2. A hearing is required principally as representations have been received from the West Mercia Police and Herefordshire Council Trading Standards both of whom seek to have imposed on the Licence a condition that (in terms):

"The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any sale area advertising the scheme operated."

A Challenge 25 Policy is not agreed or accepted but the application for a new Premises Licence offered a Challenge 21 Policy whereby any person who appeared to be under the age of 21 years of age is required to provide proof of age.

At the time of preparing this document there are some other issues regarding the wording of some of West Mercia Police's conditions, which we hope to clarify and agree with the Police prior to the Licensing Committee hearing.

3. The applicant is Whitbread Group Plc which operates about some 760 licensed premises nationwide. These comprise either stand-alone Premier Inn Hotels (amounting to some 380) or Premier Inn Hotels combined with a pub restaurant operation (of which again there are some 380) - in this case, a stand-alone Hotel with a modest food and beverage provision is proposed.
4. There are 2 other sites licensed within the Herefordshire Council licensing district. Neither of the Licences for these premises have Challenge 25 as a condition. We have reviewed a further 9 premises licensed by Hereford in respect of which we are retained. Of the total 11 sites only 1 includes a Challenge 25 condition, none have been subject to enforcement action connected to underage sales, as far as we are aware. All sites reviewed would be termed 'on-licence' premises.
5. The proposed development of the Premier Inn in Hereford represents a capitalised investment by Whitbread of approximately £6.5 million and will lead to the creation of a minimum of 25 jobs.
6. Whitbread are responsible and experienced operators of licensed premises (the majority in Town or City Centre locations) with robust systems in place for the exercise of due diligence to ensure that their premises are properly and responsibly run in accordance with the Law and to ensure the avoidance of the commission of regulatory offences, and, in particular, to guard against the sale of alcohol to persons under the age of 18. These measures include :-
 - (i) The company wide operation of Challenge 21 throughout England and Wales.
 - (ii) Induction training for all new members of staff on a range of legal responsibilities including under age sales.
 - (iii) Regular refresher training.
 - (iv) The use of smart tools through which challenges to persons under 21 are recorded through a refusals register with an epos till reminder.
 - (v) The regular and estate wide use of independent covert test purchasers to assess the effectiveness of the Challenge 21 system.

7. As a development site, these premises have yet to be constructed but upon completion and before opening, a Designated Premises Supervisor will be appointed, a Senior Manager of the premises with appropriate qualifications and all staff will be trained in accordance with the foregoing and as part of Whitbread's national development programme.
8. For the reasons set out, the applicant submits that the proposed condition requiring a Challenge 25 Policy is unnecessary and disproportionate and gives rise to a number of difficulties concerning its enforceability.

The Law

The Licensing Objectives.

9. Central to the statutory regime are the four licensing objectives which are the only relevant areas for consideration and licensing objectives. They are as follows :
 - Prevention of crime and disorder.
 - Public safety
 - Prevention of public nuisance.
 - Protection of children from harm.

The Guidance

10. Under Section 182, the Secretary of State is required to issue Guidance to Licensing Authorities on the discharge of their functions under the Act. Section 4(3) requires Licensing Authorities to have regard to the Guidance.
11. So whilst the requirement to have regard to the Guidance is binding on Licensing Authorities, paragraph 1.9 of the Guidance recognises that :

“This Guidance cannot anticipate every possible scenario such as circumstances that may arise and, as long as Licensing Authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an Appeal or Judicial Review and the reasons given will then be a key consideration for the Courts when considering the lawfulness and merits of any decision taken”.

12. Although the Guidance cannot be said to have statutory force, those parts of the Guidance which express the key aims and objectives of the legislation must have significant regard paid to them because any decision which undermines the legislative scheme may be found to be unlawful (*Padfield –v- Ministry of Agriculture, Fisheries and Food (1968) AC997: R (on the application of British Pub & Beer Association) –v- Canterbury City Council (2005) EWHC 1318 Admin*).

The Application Process

13. Section 17 sets out the procedure for making a Premises Licence Application and Section 18 sets out the provisions for determination of that application where representations have been made by the Responsible Authorities or other persons.

14. Section 18 provides that where an application for a new Licence is properly made, following receipt of relevant representations, the Licensing Authority must hold a hearing following which it may, if it thinks it is necessary, take one or more of the steps set out in Section 18(4) as follows :

(a) to grant the Licence subject to :-

- (i) the conditions mentioned in sub-section 2(a) modified to the extent the Authority considers appropriate for the promotion of the licensing objections; and
- (ii) any condition must under Section 19, 20 or 21 be included on the Licence.

- (b) to exclude from the scope of the Licence any of the licensing activities to which the application relates.
- (c) To refuse to specify a person on the Licence as Premises Supervisor.
- (d) To reject the application.

Conditions

15. The general principles which govern the imposition of conditions upon Premises Licences may be summarised under 4 heads :-

- (1) A condition may only be attached to a Licence if it is appropriate for the promotion of one or more of the licensing objections.
- (2) A condition must not duplicate other statutory provisions.
- (3) The conditions must be proportionate.
- (4) In order to give rise to criminal liability a condition must be framed so as to give precision and clarity for definition in the prescribed Act.

16. Relevant extracts from the Guidance are as follows :-

- (1) Failure to comply with any condition attached to a Licence or Certificate is a criminal offence, which on conviction, is punishable with an unlimited fine or up to 6 months imprisonment. The Courts have made it clear that it is particularly important that the conditions which are imprecise or difficult for a licence holder to observe should be avoided (paragraph 10(2)).
- (2) The Licensing Authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied that as a result of a hearing (unless all parties agree that a hearing is not necessary) that it is appropriate to impose conditions that promote one or more of the four licensing objectives (10.8).

- (3) It is possible that in certain cases where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives (10.9).
- (4) The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. **Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing Authorities and other Responsible Authorities should be alive to the indirect costs that can arise because of conditions Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives** [Our emphasis] (10.10).
- (5) Sections 19 and 19(a) effectively impose mandatory conditions on all Licences. Under the Policing and Crime Act 2009 a mandatory condition was added to all Licences and prospective Licences in respect of age verification, effectively requiring that the Premises Licence Holder shall ensure that an age verification policy applies to the premises in relation to sale of alcohol and that the policy must require individuals who appear to the responsible person to be under the age of 18 years of age (or such older age as may be specified in the policy) to produce, on request, on being served alcohol, identification bearing their photograph, date of birth and holographic mark.
- (6) At paragraph 10(49) of the Guidance, it is stated that it is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification upon request. **For example, if premises have a policy that requires any individual who appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.** [Our emphasis]
- (7) The Premises Licence Holder or Club Premises Certificate Holder must ensure that staff (in particular staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy as applies to the premises (10(46)).
- (8) All licensing determined should be considered on a case by case basis (9.42)

- (9) **The Authorities determination should be evidence based** justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve (9.43)[Our emphasis].

The role of the Police

17. At paragraph 9.12 of the Guidance it is stated that in their role as a Responsible Authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. **However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.** [Our Emphasis]

Applicant's Case

18. The licensing objectives which the Responsible Authorities seek to engage through the imposition of a Challenge 25 Policy appears to be the prevention of crime (it being impossible for there to be any allegation or disorder associated with the proposed premises, the crime in question being the sale of alcohol to persons under the age of 18 contrary to Section 146 of the Licensing Act) and the protection of children from harm.
19. The representation from **Trading Standards** by way of their email dated 14th February, 2018 and subsequent correspondence makes it clear that the adoption of a policy of Challenge 25 is a general principle of general policy.

This would appear on the face of it to be a standardised requirement unjustified and/or unsupported by any evidence relating to this particular development and as such against the Guidance (as above) and the law (see Daniel Thwaites v Wirral Borough Magistrates [2008]).

20. The **Police** representation is contained in a Memorandum dated 28th February 2018. No evidence was offered in support of the suggested contested condition by reference to this particular application and again the requirement would appear to be a standardised one. Indeed Challenge 25 in this context is only a 'preferred option', as above.
21. From a review of a random selection of previous Committee papers it is clear that the **Police** and **Trading Standards** have sought the implementation of a range of standardised conditions on numerous occasions without discrimination and without reference to the specific facts of the application.
22. Section 146 of the 2003 Act is itself designed to prevent under age sales by making it a criminal offence punishable by an unlimited fine. That offence may be committed by the person who actually makes the sale or by another person who may be responsible for the actions of the seller. In the latter case, the legislation provides the accused with a defence of due diligence. More precisely Section 146 (8) provides that where a person (the accused) is charged with an offence under this Section by reason of an act or default of some other person, it is a defence that the accused exercised all due diligence to avoid committing it.
23. So it is the duty of responsible operators to develop systems designed to prevent under age sales by employees if they wish to seek to avail themselves of a statutory due diligence defence and indeed to comply with the mandatory condition referred to above.

24. Whitbread seeks to achieve this by introducing the range of measures outlined in paragraph 6 above including the predominant on-licence industry standard of challenging individuals who appear under the age of 21.
25. If a person is accused with the commission of a Section 146 offence of operating such a system, he may properly escape liability for under age sales, provided he can satisfy the Court that the system represents exercised due diligence. If he does not provide for such an efficient system he will be convicted and punished for the offence. That is a matter for a criminal Court.
26. The proposed Challenge 25 condition seeks to go much further by making it a mandatory requirement that the applicant adopts a mechanism, the sole purpose of which is to avoid commission of a Section 146 offence. Breach of that condition is itself an offence under Section 136 of the Act.
27. The effect is to create two offences, each designed to prevent an unlawful sale of alcohol to persons under the age of 18, the first Section 146 (in primary legislation) and the second Section 136 as a breach of a condition (put in place by the Licensing Authority).
28. To overlay offences created in primary legislation with further offences under licensing conditions in this way gives rise to a number of potentially inconsistent and anomalous results. For example :-
- (a) A person may have been charged with a Section 146 offence but may have been acquitted by a criminal court by establishing a defence of due diligence on the basis that he had an efficient system designed to prevent under age sales which included a Challenge 21 policy. But notwithstanding his acquittal on the Section 146 offence, the same person might be guilty of a Section 136 offence, arising of the very same facts, by breaching a condition requiring him to operate a Challenge 25 policy.
- (b) A person who has made no underage sales at all and whose systems have effectively prevented any such sales would be liable to conviction under Section 136 if he breached a Challenge 25 condition.

(c) A due diligence defence to a charge under Section 146 might typically involve proof of a system which allowed for a margin of error in requiring identification from purchasers (e.g. Challenge 21). Applying the same logic a due diligence defence to a charge under Section 136 for breaching a Challenge 21 condition would require proof of a system allowing for a similar margin of error (say a Challenge 25 policy) and for breach of a Challenge 25 condition the necessary margin of error might mean applying a Challenge 28 policy.

29. The result is to impose by way of condition a greater and therefore disproportionate duty upon the operator of licensed premises than is imposed by Section 146.

30. If these anomalies are to be avoided altogether, the margin of error in challenging the age of potential purchasers for proof of age should be a matter for the seller/operator rather than through a condition which is enforceable under Section 136. If the seller's system is inadequate, he will be convicted under Section 146. If they are adequate, whether by operating Challenge 21 or Challenge 25, he will be acquitted having satisfied the test of due diligence.

31. However, if there is to be an enforceable condition, the potential for these anomalies is significantly reduced by allowing for a reasonable margin of error in assessing the age of potential customers so as to avoid the commission of an offence under Section 146. It is for this reason that the British Beer and Pub Association believe and have always believed that Challenge 21 is an appropriate policy to apply to venues selling alcohol for consumption on the premises. It is also for this reason why, in consultation under the Policing and Crime Bill 2008 the Government proposed Challenge 21 in preference to Challenge 25 as a discretionary condition which licensing authorities may wish to impose upon two or more premises in an area if they consider that those premises are associated with alcohol related nuisance or disorder.

32. By contrast with Section 146 which prohibits the sale of alcohol to anyone under the age of 18, the Challenge 21 policy requires staff members to exercise

subjective judgment in assessing whether a person appears to be under the age of 21 so as to require identification. The inevitable consequence of that, or any other similar policy, is that not all persons who are under the age of 21 will be required to produce identification.

33. From the above, it will be clear that :-

- (i) No evidence is brought forward specific to this proposed development.
- (ii) No evidence is advanced or is otherwise available that Whitbread are not a responsible operator or that they do not have in place an effective and credible proof of age policy (which in their case, in common with the vast majority of the on-licensed trade, is Challenge 21 throughout England and Wales).
- (iii) Different considerations apply in relation to the off licensed trade where Challenge 25 is the increasingly accepted norm but the nature of the "sale" and customer engagement is completely different to the on-trade.
- (iv) The Department of Health Public Health Responsibility Deal moreover was set up to encourage better practice in promoting public health within various sectors of the economy. The commitment in respect of tackling under age alcohol sales was that "we commit to ensuring effective action is taken in all premises to reduce and prevent under age sales of alcohol primarily through the rigorous application of Challenge 21 and Challenge 25". The responsibility deal went on to recite how the pledge may be delivered and says how an operator can delivery this pledge and stated "it is a legal requirement for business to have an age verification scheme in place. Local Authorities Trading Standard Teams are often happy to provide assistance to businesses within their areas on the application of these schemes.

Challenge 21, which is generally applied in the on-trade, was introduced by the British Beer & Pub Association, which has some promotional material available on their website. The off-trade

generally operates a Challenge 25 scheme endorsed by the Wine & Spirits Trade Association and the Association of Convenience Stores" – again reinforcing the points above.

Herefordshire Council Licensing Policy

34. Reference is made by those making representations and particularly the Police to the fact that Challenge 25 is the preferred option for operators within Herefordshire Council's own Licensing Policy. Trading Standards indicate that they set a minimum age of 25 years for all Licences. Please note however:

(a) Introduction - *This policy will set out the general approach that the Licensing Authority will take when it considers opposed applications or notices. It will not undermine the right of any individual to apply for a variety of permissions nor undermine the right to have any **such application considered on its individual merits.*** [Our emphasis]

(b) Paragraph 19.3 of the Statement of Licensing Policy states that "*the Licensing Authority **supports** the use of the Challenge 25 Policy and **recommends** this should be included as part of an applicant's operating schedule.*" [Our emphasis] The implementation of a Challenge 25 policy must not therefore be seen as a mandatory requirement in Herefordshire, and cannot be so legally.

(c) Paragraph 20.3; "Appropriate conditions for the licence or certificate will also depend on local knowledge of the premises the following measures **should not be regarded as standard conditions to be automatically imposed** in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance." [Our emphasis]

(d) Paragraph 23.28; "*Following test purchases operations within the county, it has been established that Challenge 21 has little effect. The*

Authority therefore requires premises within the county to operate a 'Challenge 25' policy, other than in exceptional circumstances." The applicant has not seen the evidence to support this statement. The use of the word **requirement** in this condition may potentially in with the legislation and guidance. It also conflicts with the wording of paragraphs 19.3 and 20.3 above. This paragraph reiterates the statutory guidance in that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned and must not be standardised as they may be unlawful and it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case and must be proportionate, justifiable and capable of being met.

The Applicant's Case

35. The Applicant's case is that Whitbread operate well managed premises and provide for a range of carefully risk assessed policies to avoid the sale of alcohol to under age persons. Included within those policies is the use of Challenge 21 by providing a reasonable and adequate margin of error for assessing the age of customers. This policy is in place in all the premises in England and Wales and the use of it is independently tested. There is and can be no evidence relevant to this application and the proposed development to contradict this, nor can there be.
36. For the reasons outlined above, the Applicant submits that a Challenge 25 policy is neither necessary nor proportionate as a mechanism for promoting the prevention of crime and disorder objective or the protection of children from harm objective in the circumstances of this case. It is also the case that this appears to be a standard policy consideration by those making representations and is therefore not tailored to the specific nature of individual premises and the requirement for such a policy of Challenge 25 fails on this test also.
37. No evidence has been produced or to the best knowledge of the Applicant, is available to justify the imposition of the more onerous requirement on these premises at this time, other than that offered by the applicant, namely the

'Challenge 21 test'; nor is there any credible justification for these proposed premises to be singled out from the otherwise general policy operating not unsuccessfully throughout England and Wales by the applicant, Whitbread.

38. Research carried out by the Retail of Alcohol Standards Group (RASG) [a copy of which attached hereto] shows general trends over a period of 8 years. The direction of travel over these 8 years was shown to be maintained and the introduction of Challenge 21 and/or Challenge 25 cannot be shown to be responsible for a change in the culture alone, this suggests that the changes are more nuanced and complex and not limited to a single policy. It cannot be described as a magic bullet. The use of Challenge 21 is not maligned or dismissed, the report states:

- "It is **difficult to establish** the extant societal impact of Challenge 25" [Our emphasis]
- "While **the results were impressive following the introduction of Challenge 21**, it was felt that a greater buffer above 21 could produce an even greater impact. The national retailer – co-ordinated by RASG – therefore voluntarily moved up to 25, **while the on trade continued to operate Challenge 21.**" [Our emphasis]
- "One of the impacts of the implementation of Challenge 25 is that adoption of **the scheme leads to a greater level of training throughout the organisations** that adopt it. While there is a Mandatory Licensing Condition that every premises selling alcohol needs to have a proof of age scheme, there is no prescription of the extent retailers have to go to train staff on its application.

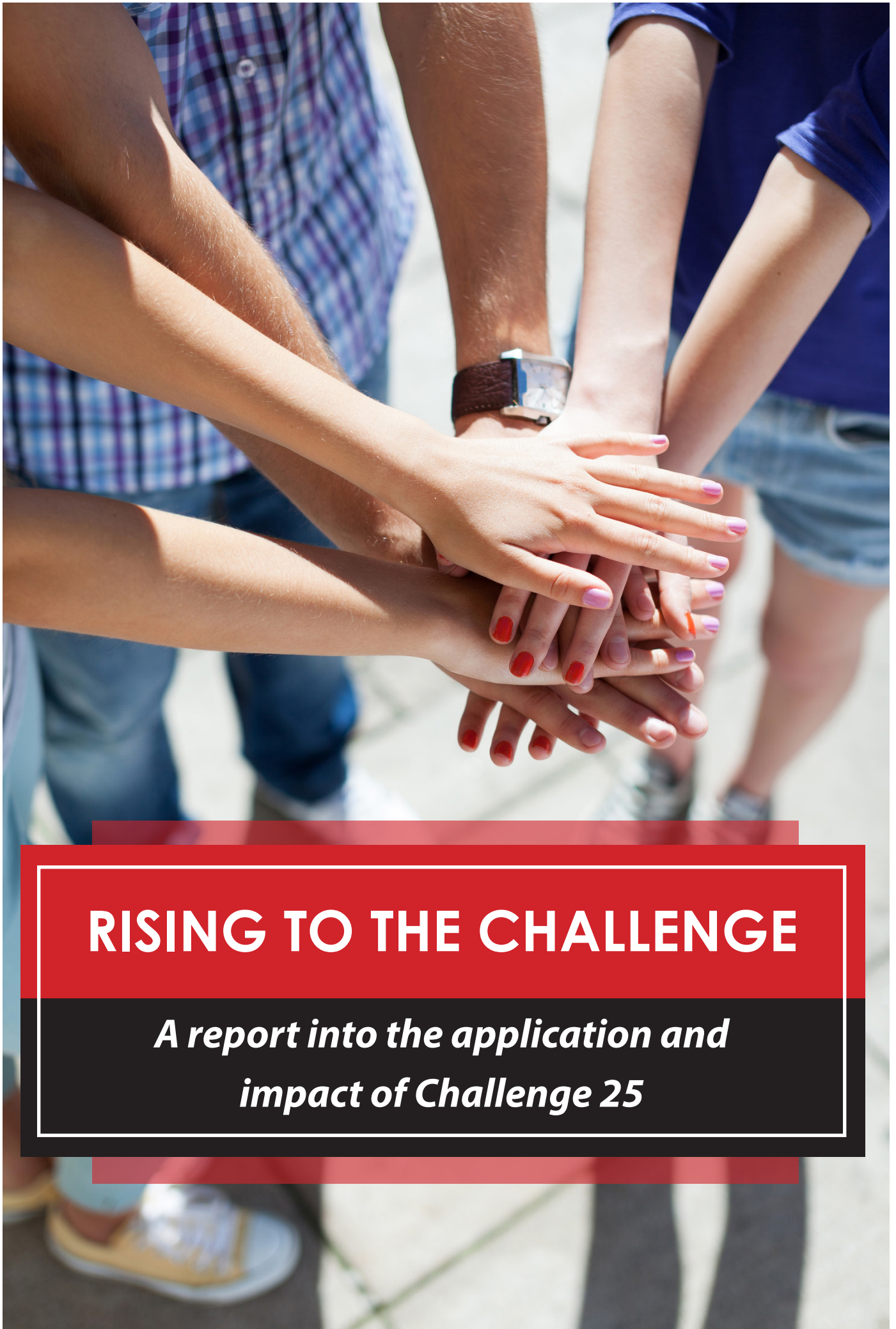
With the adoption of Challenge 25, the supermarkets nationally **not only look to adopt the higher thresholds but also ensure that training is given to support staff in the effective application of the scheme. Often this goes much further to include training on relative topics such as conflict management and proxy sales.** A survey of RASG supermarket members found that an estimated 850,000 people are being trained in the application of Challenge 25 each year in over 12,500 stores. **This has ultimately led to a greater understanding of the importance of applying**

Challenge 25 and raising the overall standard with regard to the sale of alcohol." [Our emphasis]

The primary impact of Challenge 25's introduction therefore appears to be an increase in focused training amongst staff members. Whitbread's policy is that all staff members involved in the retailing of alcohol must undergo mandatory training before being allowed to serve alcohol. Training is already fully adopted by Whitbread which seeks full engagement from team members.

John Gaunt & Partners

March 2018



RISING TO THE CHALLENGE

***A report into the application and
impact of Challenge 25***

Chair's Foreword



In 2005, retailers in the UK were challenged by the then Government to do more to tackle the serious issue of underage sales and underage drinking. The formation of the Retail of Alcohol Standards Group and the development of the Challenge 21, and subsequently Challenge 25, was a direct result of that challenge and the scheme is now commonplace in supermarkets and increasingly common amongst independent retailers and in the on-trade.

As its Chair from the outset, I am proud of the work that has been done by the Retail of Alcohol Standards Group in developing and implementing the scheme on a voluntary basis, through unprecedented co-ordination between retailers.

Nine years after its initial launch as Challenge 21, and five years on from the advent of Challenge 25, it is right that we take the opportunity to evaluate what impact the scheme has had. This report seeks to analyse the extent to which Challenge 25 has been implemented across the UK, to highlight the impact the scheme has had on underage sales since its introduction and to make recommendations about how we can further enhance Challenge 25 in the future.

The report has been brought together by the Retail of Alcohol Standards Group to help provide more information to the public, Government, alcohol retailers and others in an effort to increase understanding of the scheme and its importance to our continuing efforts to prevent underage sales.

While I have no doubt that a significant amount has been achieved since its inception, this report highlights how there is still more to do to ensure that we reach our founding goal of eradicating underage sales.



Nick Grant

Head of Legal Services
Sainsbury's Supermarkets
Chair, Retail of Alcohol Standards Group

Executive Summary

The evidence used to compile the report includes a review of evidence on underage sales and drinking, including evidence from the Department of Health, Usdaw, European School Survey Project, Serve Legal and others; a survey of 4000 people in the UK conducted by polling firm Yougov; a focus group of checkout operators and managers at a Retail of Alcohol Standards Group member supermarket; a survey of Retail of Alcohol Standards Group members as well as evidence from the day to day operation of RASG.

Key findings

1. It is estimated that 850,000 people are trained in the application of Challenge 25 each year;
2. Around 11m people have been challenged through Challenge 25 and similar schemes;
3. 67% of the public, including 86% of 18-24 year olds, are aware of Challenge 25;
4. 79% either strongly support (51%) or tend to support (29%) retailers adopting Challenge 25;
5. 65% of shop workers have been subjected to verbal abuse as a result of asking for ID;
6. Two retailers reported that 25% of their licences contain a condition to run Challenge 25;
7. Analysis shows off trade test purchasing pass rate was 79% compared to 69% for on trade;
8. Only 4% of under-age consumers would attempt to obtain alcohol from a large supermarket main till compared to the 74% that would attempt to obtain alcohol from their parents;
9. Young people drinking in the last week has fallen 18% since Challenge 25's introduction;
10. Since Challenge 21 was introduced consumption by 16-24 year olds has dropped by 24%.

Report recommendations

R1. The Retail of Alcohol Standards Group should continue to promote Challenge 25 outside of supermarkets in the on-trade and in independent stores;

R2. To recognise the frontline role carried out by checkout staff i) RASG should raise awareness the impact assaults have on staff members that administer age-restricted sales (ii) RASG should work with police and other stakeholders to ensure that local teams positively engage with retailers where incidents occur (iii) RASG should support campaigns for the Government to create a new aggravated offence of assaulting shop workers;

R3. RASG should use the opportunity available through the Local Alcohol Action Areas to promote the universal adoption of Challenge 25 in these areas;

R4. RASG should develop a programme to promote Challenge 25 in the regions in the UK with the lowest levels of challenges and awareness, such as Wales and the Midlands;

R5. RASG should work with Government and Local Authorities to promote voluntary adoption of Challenge 25 across all outlets where it is not currently in operation, helping to increase public acceptance and to raise the standards across all retailers;

R6. RASG should work with the Government, police, trading standards and local authorities to look raise awareness of the issue of proxy purchasing and help educate consumers about the problem;

R7. RASG should look to create a dialogue with Government about ensuring higher priority for alcohol education on the national curriculum;

Contents

1. About Challenge 25	5
Background	5
Key Components of Challenge 25	5
Signage	6
Challenge 25 in Scotland	7
Investment and reach of Challenge 25	7
Challenge 25 and the independent sector	7
Challenge 25 and the on trade	7
Wider context on underage sales	7
2. Analysing the impact of Challenge 25	9
Culture of training	9
Application of licensing authorities	9
Test purchase failure rates	9
Alcohol consumption among young people	10
3. Frontline experience of operating Challenge 25	13
4. Public understanding of Challenge 25 and underage sales	15
5. Conclusions and recommendations	19
Conclusions	19
Recommendations	19
Annex 1 - Polling Results Regional Breakdown	20
Annex 2 - Retail of Alcohol Standards Group Members	22

1. About Challenge 25

Background

Challenge 25 is a retailing strategy that encourages anyone who is over 18 but looks under 25 to carry acceptable ID (a card bearing the PASS hologram, a photographic driving license or a passport) if they wish to buy alcohol. Introduced as Challenge 21 in 2006, Challenge 25 rolled out in the off trade in 2009.

In 2005 major retailers were brought together by the then Home Secretary after some poor test purchasing results as part of the Government's Alcohol Misuse Enforcement Campaign (AMEC). In response to this challenge, off trade retailers formed the Retail of Alcohol Standards Group (RASG) with a view to eradicating underage sales.

Research was commissioned into why it is these sales were taking place and to look for policies that could be implemented to prevent this. The key finding of the research was that checkout staff found it incredibly difficult to guess the age of a person, and so often made mistakes. Additionally, some staff were wary about confrontation and found it difficult to challenge people, particularly as some customers can get aggressive or violent when challenged.

RASG therefore developed and adopt Challenge 21 (later Challenge 25) as a way of giving staff a buffer zone, should they not be able to accurately guess the age of a customer. This was on the basis that if you guess the wrong age at 21, you are less likely to make a mistake and serve someone underage than if you are guessing at 18. Importantly, the scheme wasn't just about the posters. Staff were given detailed training on the scheme and support with additional training like conflict resolution. This was an important cultural change for organisations. In addition to signage and training, managers were trained not to overrule staff who had made challenges, to ensure that they felt they could rely on back up.

While the results were impressive following the implementation of Challenge 21, it was felt that a greater buffer above 21 could produce an even greater impact. The national retailers – co-ordinated by RASG - therefore voluntarily moved up to 25, while the on trade continued to operate Challenge 21.

Key Components of Challenge 25

Challenge 25 is not simply an ID scheme; there are several additional components that go into making the scheme effective by looking to raising the overall standards of those that sell alcohol.

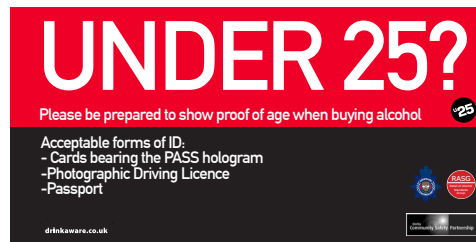
These components include:

- ▶ **Training** – Retailers that adopt Challenge 25 ensure that the scheme is accompanied by a programme to regularly train staff in its application. This helps to ensure that staff are confident in making challenges and that the policy is consistently applied in store;
- ▶ **Display** - Posters are placed in prominent places in the store to advertise that Challenge 25 is operational. This helps not only to deter potential underage customers, but also acts as a back up to staff members who make challenges;
- ▶ **Staff support**– Challenge 25 only works if staff have confidence that the decisions they make will not be undermined by management. Therefore in the operation of the scheme, decisions that are made by frontline staff are not challenged or overturned by management;
- ▶ **Keeping records** – The operation of Challenge 25 encourages the keeping of records of all the failed attempts to buy alcohol of those without ID who look under 25, this helps licencees with police or trading standards operations ;
- ▶ **Clarity on acceptable ID** – There are hundreds of forms of ID used in the UK and this can make it difficult for retailers to know what to accept. The standard Challenge 25 scheme suggests accepting Passports, Driver's Licences and PASS approved cards. While individual premises can accept any ID within the law, if they chose to accept the Challenge 25 standard this is clearly highlighted on all posters and ensures consistent application of the scheme;

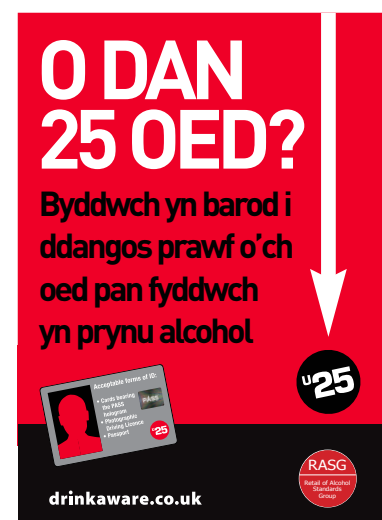
Signage

RASG has developed a suite of designs, from posters to shelf barkers to badges, to reinforce the message throughout the store. The signage in red and black adds a fresh and striking look and makes it clear that under 25s must now expect to be challenged to prove their age. It also spells out the heavy fines which could follow for those caught breaking the law. The signage rolled out in RASG member stores across the UK in 2009 and since then the uniform look has ensured recognition and awareness by consumers up and down the country.

In addition to signs, badges and shelf sliders are also available for companies to use across their stores in both English and Welsh.



The signs are also available in Welsh language:



Challenge 25 in Scotland

From 1st October 2011 in Scotland, the Alcohol etc. (Scotland) Act 2010 introduced a new mandatory condition for all premises licences and occasional licences requiring that an age verification policy in relation to the sale of alcohol on the premises.

The law has set a minimum age of 25 years for the policy where it appears to the person selling the alcohol that the customer may be under the age of 25 years. This means that all premises, both on and off trade, are required to adopt Challenge 25 making it universally applicable.

Investment and reach of Challenge 25

A survey of Retail of Alcohol Standards Group retailers found that Challenge 25 was operating in at least 12,500 supermarket stores in the UK ranging from large hypermarkets to small town stores. An average of 68 full and part time workers are trained each year in every store in the UK producing a total estimated number of people trained to enforce challenge 25 each year of 850,000.¹

Challenge 25 and the independent sector

While Challenge 25 has been championed by the supermarkets, its reach has grown further and it is now increasingly prevalent in the independent retail sector. Free access to the Challenge 25 guide, posters and materials online means that it is possible for any store to implement the scheme. In addition, the scheme is being promoted further through the work of organisations like the Association of Convenience Stores, who sit on the Retail of Alcohol Standards Group, that promote the scheme heavily. Additionally, with local areas more likely to place Challenge 25 as a licensing condition on the application for an independent store, compared to a pub or bar, Challenge 25 is now seen as the standard for the off trade.

Challenge 25 and the on trade

The scheme most prevalent in the on trade continues to be Challenge 21, which is operated and promoted by the British Beer and Pub Association. Operators can voluntarily adopt the Challenge 25 policy and in some areas licensing conditions mean that this is mandatory. In addition, in some Community Alcohol Partnerships, the on trade will adopt Challenge 25 to ensure a universal approach in the area that the partnership operates.

Wider context on underage sales

Penalties for underage sales² - There are significant penalties for selling alcohol to a person under the age of 18 for both staff and retailers. These include:

- ◆ A fine of up to £5000 if a member of staff makes an underage sale unless they can show they have taken all measures including asking for identification that would convince a reasonable person that they were over 18;
- ◆ A fine of up to £20,000 for a premises that persistently sells to people underage, defined as happening on 2 or more occasions in a 3 month period;
- ◆ Closure orders for a maximum of 14 days following persistent underage sales;
- ◆ Staff members could face an immediate on the spot fine of £90;

Mandatory licensing conditions - In October 2010 it became a mandatory condition on all licences that “all those who sell or supply alcohol have an age verification policy in place requiring them to ask anyone who looks under 18 for proof of age by providing appropriate identification”³.

Challenge 25 and Equalities Act - One concern often raised by those that have been refused a sale because of the Challenge 25 scheme, when they are over the legal age, is that the scheme is in breach of the Equalities Act 2010, as customers were being discriminated against on the basis of their age.

1 Survey of Retail of Alcohol Standards Group Members 2013

2 Licensing Act 2003 and Police Reform and Social Responsibility Act 2011

3 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

In 2012 the Government Equalities Office, at the urging of associations such as the Wine and Spirit Trade Association and Association of Convenience Stores, confirmed that age-related sales schemes would receive an exemption from the age discrimination regulations on the grounds that:

- ◆ There is a strong public policy interest, this has important wider social implications and it is Government policy to cut under-age access to alcohol and drugs;
- ◆ Age verification schemes have proven to be successful in helping to reduce under-age drinking;
- ◆ There is no evidence that such schemes are harmful in terms of age discrimination; and
- ◆ The absence of a specific exception in this area could leave the issue uncertain and undermine the effectiveness of the policy.

Age-restricted sales and assaults on workers - Usdaw is one of Britain's largest trade unions with over 406,000 members nationwide. Usdaw members work in a variety of occupations and industries including shopworkers. Through the freedom of fear campaign they have been working to highlight the high level of assaults and abuse that is received by frontline shop workers, particularly when challenging consumers on age restricted sales. In a 2010 poll they found⁴:

- ◆ **65%** of shopworkers have been subjected to verbal abuse as a result of asking for ID;
- ◆ **43%** of all incidents of abuse resulted from shopworkers asking customers for proof of age ID or refusing a sale of an age-restricted product;
- ◆ **16%** have been threatened with violence;
- ◆ more than **2%** have been physically assaulted;
- ◆ over **70%** of shopworkers said they were worried about facing criminal prosecution if they get a decision wrong;
- ◆ over **60%** also worried about being disciplined by their employer.

⁴ Usdaw Freedom From Fear Members Survey, 2010

2. Analysing the impact of Challenge 25

It is difficult to establish the exact societal impact of Challenge 25, given that it is not yet universally applied and a number of elements can have an impact on alcohol consumption trends. However, there are some ways in which the success of the scheme can be measured.

Culture of training

One of the impacts of the implementation of Challenge 25 is that adoption of the scheme leads to a greater level of training throughout the organisations that adopt it. While there is a Mandatory Licensing Condition that every premises selling alcohol needs to have a proof of age scheme, there is no prescription of the extent retailers have to go to train staff on its application.

With the adoption of Challenge 25, the supermarkets nationally not only look to adopt the higher thresholds but also ensure that training is given to support staff in the effective application of the scheme. Often this goes much further to include training on relative topics such as conflict management and proxy sales. A survey of RASG supermarket members found that an estimated 850,000 people are being trained in the application of Challenge 25 each year in over 12,500 stores. This has ultimately led to a greater understanding of the importance of applying Challenge 25 and raising the overall standard with regard to the sale of alcohol.

Application by licensing authorities

While Challenge 25 remains a voluntary scheme in England, Wales and Northern Ireland and mandatory in Scotland, many Local Authorities are taking it upon themselves to promote Challenge 25 through their licensing policy statements and as conditions on the licences they grant. Two RASG retailers reported that they believe around 25% of their licences contain a condition requiring them to run the Challenge 25 scheme. Application varies from those that just cite Challenge 25 as best practice to others that go much further, for example Wigan Council's Licensing Policy Statement says that the council "strongly supports the use of a 'Challenge 25' policy for all premises that supply alcohol"⁵.

Test purchase failure rates

There are a number of reports containing evidence on the relative test purchase failure rates for the on-trade (where Challenge 21 is more prevalent) or the off-trade (where Challenge 25 is more prevalent). Serve Legal, the test purchasing company, recently released a report ("Checked Out"⁶) that showed the differential in failure rates between the off and the on trade.

- ◆ Serve Legal carried out 33,400 off-trade and 6,000 on-trade site visits in 2011. The off-trade pass rate was 79% compared to 69% for the on trade.
- ◆ That 10% gap had been maintained during the first five months of 2012, with pass rates of 81% for the off-trade, and 71% for the on-trade.

Further research into this issue has been conducted by Community Alcohol Partnerships, which found that an average of 10,000 test purchases were made on the off trade each year, with a failure rate of around 13%⁷ and the Scottish Government which found that the test purchase failure rate on the off trade was 9.3% (79/841) compared to 17.4% for the on trade (8/46)⁸.

⁵ Wigan Council Licensing Policy Statement, 2011 – 2014

<http://www.wigan.gov.uk/Docs/PDF/Business/Licensing-Permits-Registrations/Licensing-policy-statement.pdf>

⁶ Checked Out, report by Serve Legal, 2012

⁷ Community Alcohol Partnerships research based on FOI requests from local authorities

⁸ An evaluation of the implementation of, and compliance with, the objectives of the Licensing (Scotland) Act 2005: Sub-study of Test Purchasing and other measures to enforce underage alcohol sales regulations July 2012

Serve Legal also looked further into the attitudes of young people and how they obtained alcohol. It found:

- ◆ Only **4%** of under-age consumers would attempt to obtain alcohol from a large supermarket main till;
- ◆ Only **13%** of under-age consumers would attempt to obtain alcohol from a high street chain pub;
- ◆ **74%** of under-age consumers would attempt to obtain alcohol from their parents;
- ◆ **86%** of under-age consumers would attempt to obtain alcohol from older siblings or friends.

This evidence seems consistent with research from the European School Survey Project⁹ that found that the UK had the 4th best record on preventing sales to underage people with only 26% of students purchasing alcohol from an off-licence premises in the last 30 days. This compared to an EU average of 37%, with only Finland, Sweden, Iceland, and Norway having better records.

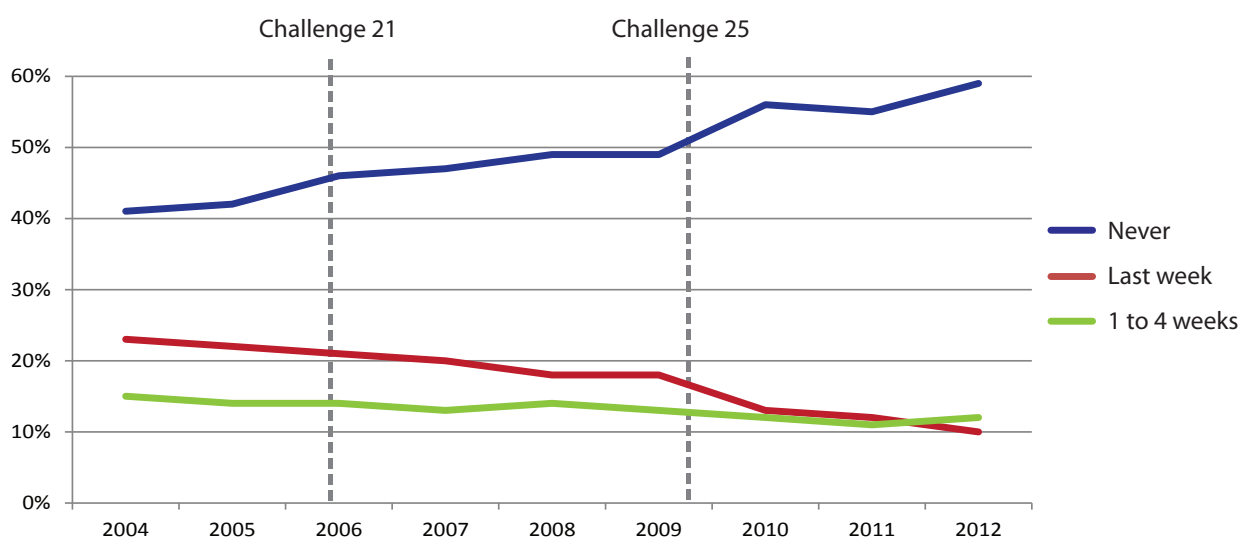
Further to this, the Department of Health’s survey in to drinking among young people¹⁰ found:

- ◆ The proportion who usually bought alcohol from an off-licence has declined since 1996, from 27% to 16% in 2010 and remains steady at 13% for supermarkets;

Alcohol consumption among young people

Again it is difficult to analyse the exact impact of Challenge 25, however given the reduction in direct underage sales that has resulted since the schemes implementation, it is fair to say that it has played an important part in the overall trends in alcohol consumption among young people. The Department of Health survey into young people’s drinking patters has found a consistent decline in alcohol consumption and a change in attitudes towards alcohol consumption.¹¹

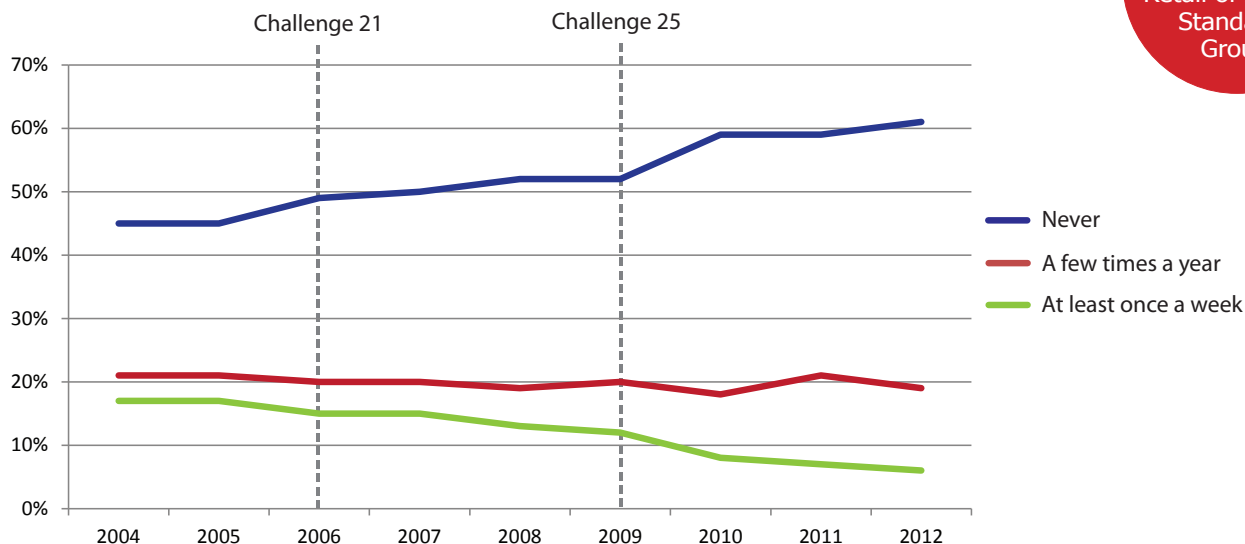
11 to 15 year olds drinking



It found the numbers of 11-15 year olds drinking in the past week had dropped from 23% to 21% by the introduction of Challenge 21 in 2006. However, following its introduction there was a further drop to 18% in 2009 and since Challenge 25 was introduced, there has been a further decline to 10%. This is almost half of the 2006 level, with the majority of the fall coming after Challenge 25 was introduced.

⁹ The European School Survey Project on Alcohol and Other Drugs 2011
¹⁰ Department of Health, Drinking Smoking and Drug Use among young people, 2011
¹¹ Department of Health, Drinking Smoking and Drug Use among young people, 2013

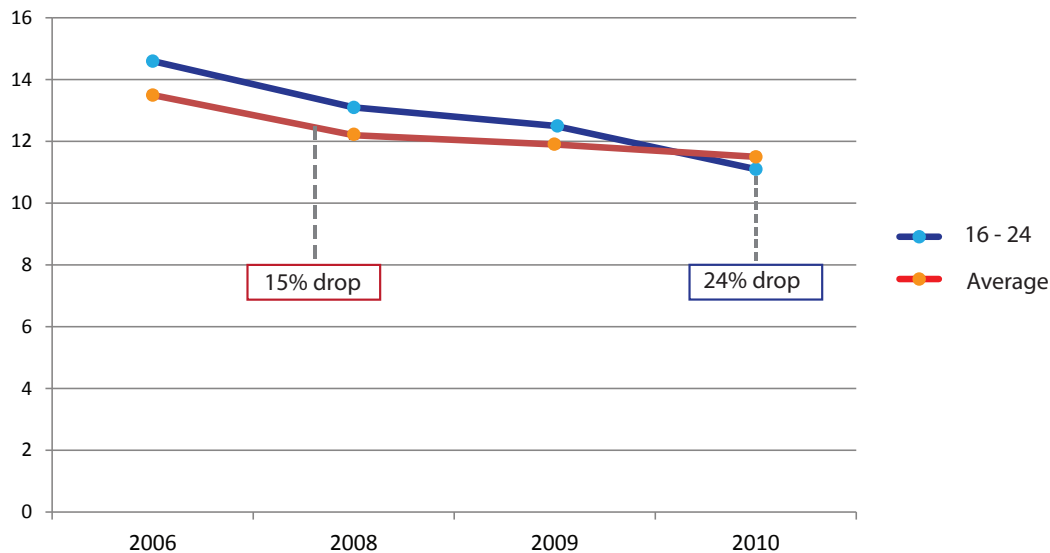
11 to 15 year old consumption levels



The level of consumption for young people has also dropped considerably, dropping from 17% drinking at least once a week in 2004 to 6% in 2012, again over half of this decline coming after Challenge 25 was introduced in 2009.

General Lifestyles Survey (Department of Health)

Since Challenge 21 was introduced in 2006 the drop in consumption for 16-24 year olds has been around 24%, a far greater drop in consumption than the average. The 16-24 year olds category is now below average in terms of alcohol consumption, having been 8% higher than average in 2006.



Underage alcohol related hospital admissions

In addition to the pattern of decline in underage sale and underage drinking there is also a clear decline in the numbers of underage hospital related admissions related to alcohol. From 2008/9 to 2012/3 the number of admission that were wholly attributable to alcohol for under 12s dropped each year from 364 to 209 per year. For under 17s the same indicator also saw a drop each year from 6,874 in 2008/9 to 4,360 in 2012/13, a 37% decline¹².

12 Parliamentary Question 178431 Alcoholic Drinks: Young people - Answered 9th December 2013

Proxy purchasing

While overall consumption is down and the number of young people buying alcohol directly continues to decline, there is a worrying increase in the number of those who buy it from a friend or relative, which increased from 9% in 1998 to 26% in 2010¹³. When asked to outline where young people got their alcohol from a later report from the Department of Health found that parents (19%) or friends (19%) were the most likely sources. Getting someone else to buy it (13%), or a relative or sibling (14%) also featured highly, whereas from a shop (4%) or pub (1%) were very low.

This evidence is consistent with a survey of 4000 people in the UK¹⁴ (see below for full details), conducted by the WSTA, which found that of the 11% that admitted buying alcohol for someone underage, the majority had done so for members of their immediate family (62%), with a further 18% buying for members of their extended family and 24% for their friends. Just 5% said they had purchased alcohol for a stranger and 4% for someone known to them but not a friend.

Section 149 (3) of the Licensing Act 2003 makes it an offence for a person aged under 18 to buy or attempt to buy alcohol or for any person to buy or attempt to buy alcohol for a person aged under 18. Anyone found purchasing alcohol on behalf of an under 18 is liable to an £90 Fixed Penalty Notice and may under certain circumstances receive a custodial sentence and a £5,000 fine on conviction.

However it is debatable whether an offence is committed where alcohol is bought on behalf of the adult and then shared (e.g. parents who buy alcohol and then give to their children or older friends or siblings sharing alcohol with under 18s) as the legal age at which a parent is able to give alcohol to a child is 5 years old.

Additionally, section 186 makes it clear that trading standards can only prosecute for offences relating to the underage sale of alcohol direct to a child. Trading Standards cannot prosecute for proxy purchase offences; the Police or local Licensing Authority can. This leaves retailers, who are unable to check how the alcohol is to be consumed or passed on, as well as enforcement agencies, in a position where it is difficult, if not impossible, to act. Further work is needed to look into the issue of proxy purchasing. While schemes such as Community Alcohol Partnership look to address this issue, by looking to educate both young people and parents about the fines for proxy purchases, much more could be done. The WSTA survey also found that while 81% knew that it was illegal to purchase alcohol on behalf of a minor, just 26% of those surveyed knew that you could be fined up to £5000 for doing so.

Given the complex nature of proxy sales, it is important that the trade, trading standards, the police and the Home Office look to work ever more closely on dealing with the issue.

13 Department of Health, Drinking Smoking and Drug Use among young people, 2011

14 YouGov Poll for the WSTA, December 2013

3. Frontline experience of operating Challenge 25

In order to get a detailed understanding of the impact of Challenge 25 on the frontline workers, a focus group was conducted with 12 members of check out and managerial staff from a Retail of Alcohol Standard Group member company.

The discussion was informal and staff were asked to be as frank as possible when commenting. Below are verbatim quotes from the discussion.

As outlined above, the purpose of Challenge 25 was to ensure that where mistakes were made, the higher threshold would mean that it is less likely that these would result in an underage sale. When asked about their experience, the responses suggest that this principle is still valid.

What is your experience of underage sales?

- ◆ *"We get all the training, but we're still humans so we make mistakes. We don't mean to, but when you are rushed off your feet and have a big queue, sometimes you do, but not on purpose."*
- ◆ *"I'm rubbish at telling people's ages, it's really difficult, so that buffer really helps"*
- ◆ *"The till prompts are incredibly helpful as they alert you to it and remind you to ask for ID."*

An important part of Challenge 25 is that ID is requested in order to confirm that the customer is over the legal purchasing age of 18. However, during the interviews the staff outlined the difficulties they face with ID, but also the benefits of application of the scheme across all age restricted products.

Are there any problems with the ID that is produced?

- ◆ *"Fake IDs are a big problem, you see all sorts of different types. It doesn't help that you don't know what a foreign driving licence is supposed to look like"*
- ◆ *"The younger ones are used to it by now, so if they get ID'd and they are over the legal age they generally just produce it no problem. The older ones tend to kick off a bit, they are not as used to it and get annoyed at having to show ID"*
- ◆ *"It's good that it is universally applied where we work, you apply Challenge 25 for everything, cigarettes, lottery, booze"*

As outlined in the Usdaw campaign, the operation of ID checks for age restricted sales can result in abuse and even assaults on staff members. This was very apparent in the interviews with staff who spoke at length about the types of abuse they sometimes face when making challenges.

What is your experience of making challenges?

- ◆ *"It is really scary when a group of 8 or so people come in and you just know they are underage and trying to buy alcohol. They get verbally and sometimes physically abusive and if you are alone, or just two of you in the store it's really intimidating. Sometimes you just think it's not worth the abuse, I don't get paid enough to deal with that type of situation"*
- ◆ *"You try and be kind and positive to aggressive customers and try and defuse the situation, but often they are kicking off because they know they aren't old enough, so whatever you say doesn't matter"*
- ◆ *"Abuse happens on a regular basis, we're just doing our jobs"*
- ◆ *"It is definitely a shield, that protects you from some abuse"*
- ◆ *"It would give you confidence if you could report the abuse to someone who would actually deal with it"*
- ◆ *"We used to have to challenge people about 90-100 times a week, but that has dropped to about 20-30"*
- ◆ *"It's good that we can sometimes have security guards and CCTV as they can often deal with them, but they are not here all the time as it costs to have them"*

- ◆ *"It makes a big difference if you have police or PCSOs that are engaged, coming in to the store"*
- ◆ *If the Government want to come and spend a Saturday night behind the tills they'd see exactly what we have to put up with"*

The staff were asked about their views on how Challenge 25 was applied more generally and their experience of this. As could be expected, there was a sense that others were not going as far as their employer and the staff saw this as being less responsible.

What is your view of how Challenge 25 is applied generally?

- ◆ *"I think it should be better advertised, it should be everywhere as some people don't understand it"*
- ◆ *"There is inconsistency as we do challenge 25, but in pubs they do 21 and in some places nothing. It would be better if it was consistent."*
- ◆ *"Although, you know that even if they get refused they just go and try the other shops, some shops don't do Challenge 25 and you see the kids go off and get it from there. It would make a huge difference if the government made it mandatory"*
- ◆ *"Supermarkets are under more scrutiny so have to do 25, but pubs/clubs can just do 21"*
- ◆ *"It's like when they introduced seat belts, people who passed their test before found it hard, but everyone after is just used to it"*
- ◆ *"I think there is more recognition of 25 as more people shop in supermarkets"*

As outlined above the shift from direct sales to proxy sales is a notable trend in which Challenge 25 may have played a part. Staff members were asked whether they were aware of proxy purchasing to see whether their experience chimed with that trend.

Are you aware of proxy purchasing?

- ◆ *"Proxy is becoming more of an issue. You see them outside trying to get others to buy it"*
- ◆ *"And there is a real difficulty when parents buy it. How do you know what they are going to do with it when they leave the store."*
- ◆ *"Buying for kids is a real problem, there needs to be more public education, more consequences, the fines should be advertised"*
- ◆ *"No one takes on the public, no one takes on proxy purchasing, they just come after retailers"*
- ◆ *"You can't control what happens when people leave the store"*
- ◆ *"Parents are the big issue"*
- ◆ *"There is definitely a role for schools"*

4. Public understanding of Challenge 25 and underage sales

In December 2013 the WSTA commissioned YouGov to undertake polling on the issue of Challenge 25 and proxy purchasing. A large sample of 4000 people were surveyed in order to achieve comprehensive results and establish an in depth understanding of how Challenge 25 and underage sales were viewed by the general public. The results of the survey are set in detail below:

Q1: “Challenge 25” is the voluntary retailer strategy, taken up in supermarkets and other stores, that requires people who look under the age of 25 produce identification (ID) when they are purchasing alcohol, in an effort to prevent underage sales.

Before taking this survey, had you heard of Challenge 25?

Yes, I had heard of Challenge 25 and understood its purpose	61%
Yes, I had heard of Challenge 25 but didn't understand its purpose	6%
No, I had not heard of Challenge 25	29%
Don't know/can't recall	4%

- ◆ There was a high recognition of Challenge 25, with 67% of people knowing of the scheme and 61% understanding its purpose.
- ◆ However, more importantly the recognition among young people is much higher. 86% of 18-24 year olds have heard of Challenge 25 and 79% understood its purpose. Similarly, 86% of 25-34 year olds have heard of it and 77% knew its purpose;
- ◆ The North East (81%) had the highest recognition of Challenge 25, followed by Scotland (73%) where it is mandatory. The Midlands (East 61% and West 60%) had the lowest recognition of Challenge 25 followed by Wales (61%);
- ◆ 36% of people in the West Midlands had never heard of Challenge 25, whereas in the North West the number was half that at 18%;
- ◆ 87% of students have heard of Challenge 25 and 83% understand its purpose;
- ◆ Facebook is the most used social network for people that have not heard of Challenge 25;

Q2: Have you ever been stopped and asked for ID when purchasing alcohol specifically because of Challenge 25 or a similar scheme?

Yes, I have	23%
No, I haven't	74%
Don't know/can't recall	3%

- ◆ Out of the UK population, 23% have been asked to produce ID by Challenge 25. As a total number of UK adults, this is the equivalent to 11m people (using ONS data of 47.8 million UK adults over 18).
- ◆ Again, younger people make up the majority of this, with 75% of 18-25 year olds having been challenged and 55% of 25-34 year olds.
- ◆ The South West has the lowest number of people challenged at 16%, and Wales again features low down with just 19%;

- ♦ 77% of students have said that they have been challenged and cider drinkers (32%) are most likely to be stopped, followed by spirits drinkers (28%).

Q3: To what extent do you support or oppose retailers using schemes like Challenge 25?

Strongly support retailers using schemes like Challenge 25	51%
Tend to support retailers using schemes like Challenge 25	29%
Neither support nor oppose using schemes like Challenge 25	11%
Tend to oppose retailers using schemes like Challenge 25	4%
Strongly oppose retailers using schemes like Challenge 25	3%
Don't know	3%
Net: Support	79%
Net: Oppose	6%

- ♦ There was strong support for retailers that adopt Challenge 25 with 79% of respondents saying they either strongly support (51%) or tend to support (29%) retailers adopting the scheme.
- ♦ Interestingly, the group most opposed to retailers adopting the scheme are 18-24 year olds, with just 71% in favour and 74% for 25-34 year olds. Support increases with age with 55+ being the strongest supporters (83%);
- ♦ The North East is the strongest supporter (85%), followed closely by Wales (84%) and the East Midlands and Scotland (82%); interestingly, Wales and the East Midlands have the lowest recognition and the highest support, suggesting promoting Challenge 25 in those areas would be popular.
- ♦ Retired people are most favourable (84%), with students around average (77%). Unemployed people have the strongest objections with just 66% in support, 17% ambivalent and 17% against;
- ♦ People without Children are the strongest supporters (80%) compared to those with 3+ children at 76%;

Q4: Have you ever bought alcohol for a person that you knew was under the age of 18 at their request?

Only 11% of people say they have made a proxy purchase of alcohol for someone under 18.

Yes, I have	11%
Yes, I haven't	86%
Can't recall	3%
Prefer not to say	1%

- ♦ Generally, the younger you are the more likely you are to have bought alcohol for a person under 18, with 19% of 18-24 year olds admitting they had compared to just 5% of people 55+;
- ♦ This is most prevalent in the East of England (15%) and the South West (16%), with the lowest recorded level in the East Midlands (9%) and the South East and North East;
- ♦ Students are the biggest culprits (16%) followed by those in full time employment (14%);

Q5: You said that you have bought alcohol for a person that you knew was under the age of 18 before at their request. Which, if any, of the following people was this for?

An immediate family member (e.g. brother, sister, son, daughter etc.)	62%
Another relative (e.g. cousin, niece, nephew etc.)	18%
A friend	24%
Someone known to me, but not a friend	4%
A stranger	5%
Other	1%
Don't know/can't recall	2%

- ◆ The majority of people that have bought for someone under 18 have done so for members of their immediate family (62%). With a further 18% buying for members of their extended family and 24% for their friends.
- ◆ Just 5% said they have purchased this for a stranger and 4% for someone known to them but were not a friend.
- ◆ In the North West (79%) and North East (76%) they have the highest levels of buying for immediate family. Whereas London (25%) and the South East (16%) have particular problems of people buying for strangers. Scotland (43%) and Yorkshire (38%) tend to buy more for their friends;
- ◆ Perhaps understandably, the greater number of children you have the more likely you are to have bought for an immediate family member with just 56% of people without children doing so compared to 74% with children, and 89% with 3+ children;

Q6: Before taking this survey, which, if any, of the following where you aware of?

We asked people a range of questions on some of the restrictions around selling alcohol, which generally turned out to be low.

It is illegal to buy alcohol on behalf of anyone under 18	81%
It is illegal for a person under 18 to attempt to buy alcohol	79%
A shop selling alcohol to underage people twice can be subject to a fine up to £20,000	37%
A shop assistant selling to a person under the age of 18 could receive an on the spot fine of £80	36%
You can be fined £5000 for buying alcohol on behalf of someone under 18	26%
A person under the age of 18 attempting to buy alcohol could be fined up to £1000	23%
None of these	6%

- ◆ Generally, recognition increases with age, with 89% of 55+ people knowing it is illegal to buy alcohol on behalf of someone under 18, compared to 73% of 25-34 year olds;
- ◆ Although there is higher recognition of the fine for proxy purchasing for 18-24 year olds(33%) than for 55+ (24%);

Q7: Which, if any, of the following do you believe would be effective in preventing/reducing underage drinking?

Better alcohol education in schools	53%
Making Challenge 25 mandatory for all alcohol purchases	51%
Higher penalties for those that sell to underage people	45%
Higher penalties for those that buy alcohol for underage people	41%
More advice for parents about the dangers of giving alcohol to their children	35%
More activities for young people	32%
More partnership working between the retailers and local authorities	24%
Banning alcohol advertising	18%
Increasing the price of alcohol	15%
Restricting alcohol to a single aisle at the supermarkets	11%
None of these	6%
Don't know	5%

- ◆ Education came out on top in 8 of the 11 regions of the UK, with making Challenge 25 mandatory second in all regions except for 4, 3 in which it was top and once just behind higher penalties for those that sell to the underage;
- ◆ The third and fourth most popular were higher penalties for those that sold to people underage (45%) as well as those that bought for people underage(41%);
- ◆ Advise for parents (35%), more activities for young people (32%) and partnership working with the trade (24%) received moderate support;
- ◆ Interestingly, the more restrictive suggestions such as banning alcohol advertising (18%), increasing the price of alcohol (15%) and restricting the sale of alcohol to a single aisle (11%) were seen as the least effective.

5. Conclusions and recommendations

Conclusions

The introduction of Challenge 25 was an unprecedented collaboration between alcohol retailers to ensure that voluntary action was taken to tackle the important issue of underage sales. Since its inception the scheme has grown substantially and is now well recognised by the public. It has had a significant impact on reducing the number of underage purchases made by young people. It has led to a change in culture in retailers that provide training for hundreds of thousands of staff and helps to give confidence and support to those who have to enforce it on the front line. It is recognised as best practice and promoted not only by the trade, but also by Government, locally and nationally, and enforcement agencies.

Yet, despite its growth and impact on reducing underage sales and drinking, there are still issues that face those stores that operate the scheme. Too many members of staff are victims of abuse and assault after making challenges. Additionally, there appears to be a shift from direct sales to proxy purchases, which are by their nature much harder for retailers and enforcement agencies to tackle.

There are issues too with the lack of universal application which creates a disparity between those that apply the high standard of Challenge 25 and those who do the very minimum. Underage sales, now much less frequent, still occur as there is always human error that cannot be removed entirely.

The following are recommendations for how the trade, the Government and others can act to further enhance the Challenge 25 scheme in the future.

Recommendations

R1. The Retail of Alcohol Standards Group should continue to promote Challenge 25 outside of supermarkets in the on-trade and in independent stores;

R2. To recognise the frontline role carried out by checkout staff i) RASG should raise awareness the impact assaults have on staff members that administer age-restricted sales (ii) RASG should work with police and other stakeholders to ensure that local teams positively engage with retailers where incidents occur (iii) RASG should support campaigns for the Government to create a new aggravated offence of assaulting shop workers;

R3. RASG should use the opportunity available through the Local Alcohol Action Areas to promote the universal adoption of Challenge 25 in these areas;

R4. RASG should develop a programme to promote Challenge 25 in the regions in the UK with the lowest levels of challenges and awareness, such as Wales and the Midlands;

R5. RASG should work with Government and Local Authorities to promote voluntary adoption of Challenge 25 across all outlets where it is not currently in operation, helping to increase public acceptance and to raise the standards across all retailers;

R6. RASG should work with the Government, police, trading standards and local authorities to look raise awareness of the issue of proxy purchasing and help educate consumers about the problem.

R7. RASG should look to create a dialogue with Government about ensuring higher priority for alcohol education on the national curriculum;

Annex 1 – Polling Results Regional Breakdown

North East

- ◆ The North East (81%) had the highest recognition of Challenge 25 of any UK region, followed by Scotland (73%) where it is mandatory. The Midlands (East 61% and West 60%) had the lowest recognition of Challenge 25 followed by Wales (61%);
- ◆ People in the North East are also the strongest supporters of Challenge 25 with 85% either supporting or strongly supporting retailers that adopt the policy. This was followed closely by Wales (84%) and the East Midlands and Scotland (82%);
- ◆ The North East also registers the second lowest level of people reporting that they have bought alcohol for someone under 18, with just 8% of people having done so, compared to 25% in London. The majority of these sales (83%) was people buying for immediate family members;

North West

- ◆ The North West has high recognition of the Challenge 25 Scheme with just, with 70% of people in the region having heard of the scheme. They have also a high level of support, with 79% of people in the region saying they either support or strongly support retailers adopting the measure.
- ◆ People on the North East have some of the highest levels (76%) of buying for immediate family and very low levels of people buying alcohol for strangers (1%) or for people they know that aren't friends (10%);
- ◆ People in the region think that education (55%), the mandatory application of Challenge 25 (54%) and high penalties for those that sell (47%) and buy (45%) alcohol for people underage as the best way to tackle underage sales.

East Midlands

- ◆ The Midlands have the lowest recognition of Challenge 25 with just 61% of people in the East Midlands having heard of the scheme. This compares poorly to the North East (81%) and Scotland (73%) which report much higher levels;
- ◆ However, despite this, people in the East Midlands are some of the strongest supporters of the scheme with 82% saying the support or strongly support retailers that adopt the measures;
- ◆ The East Midlands records the lowest number of people that have bought alcohol for someone under the age of 18, with just 7% saying they have done so, this compares to over 25% in London;

West Midlands

- ◆ The Midlands have the lowest recognition of Challenge 25 with just 60% of people in the East Midlands having heard of the scheme. This compares poorly to the North East (81%) and Scotland (73%) which report much higher levels;
- ◆ 36% of people in the West Midlands had never heard of Challenge 25, whereas in the North West the number was half that at 18%;
- ◆ People in the West Midlands see better alcohol educations (54%) and the mandatory application of Challenge 25 (48%) as the best ways to tackle underage drinking.

Yorkshire and Humber

- ◆ Yorkshire and the Humber has the 3rd highest recognition of any region of the Challenge 25 scheme with 72% of people saying that they have heard of it;
- ◆ While the levels of people in Yorkshire and Humberside that have admitted buying alcohol for people under the age of 18 are around average (11%), this region shows the second highest level of people doing it for their friends (38%), compared to just 15% in the North East;
- ◆ People in the region think that better education (54%) and the mandatory application of challenge 25 (53%) are the best ways of tackling underage drinking.

Wales

- ◆ People in Wales showed some of the lowest recognition of Challenge 25 with just 61% of people asked having heard of the scheme, compared to the average of 67%;
- ◆ Wales again had the second lowest number of people saying they had been Challenged by a scheme like Challenge 25 with just 19% of people reporting this was the case;
- ◆ However, despite this, people in Wales showed the second highest level of support for the scheme of any region in the UK (84%).

London

- ◆ Stores in London have the best record for Challenging people using schemes like Challenge 25, with 27% of the population reporting being challenge. The highest level for any region in the UK;
- ◆ Just 9% of people in London admit having bought alcohol for people that are underage. However, of the people in London that have, a quarter of them (25%) have done this for complete strangers, the worst record in the UK;
- ◆ The majority of Londoners believe that better education (55%) and higher penalties for those that sell to people underage (46%) is the best way to tackle underage drinking.

Scotland

- ◆ Scotland, where challenge 25 is now mandatory, has the second highest recognition of Challenge 25 (73%) of anywhere in the UK, second only the North East (81%);
- ◆ Wales also shows the second highest level of support for the Scheme (84%) again, just behind the North East of England (85%).
- ◆ While Scotland has average levels of people admitting they have bought alcohol for a person under the age of 18 (11%), people in Scotland register the highest level that is bought for friends (43%), well above the UK average of 24% and the same level as the number that bought for family members, which is well below the UK average (62%);

South East

- ◆ The South East of England reports some of the lowest levels of people buying alcohol for under 18s in the whole of the UK, just 8% compared to the average of 11%;
- ◆ However, despite this low level, they do also report having one of the highest levels of people buying alcohol for complete strangers, with 15% of those that have bought for young people admitting they had done, second only to London (25%) and compared to the average of just 5%;
- ◆ The majority of respondents in the South East (55%) thought that better alcohol education was the best way to deal with underage sales.

South West

- ◆ The South West reported the lowest number of people that had been challenged by a scheme like Challenge 25 (16%);
- ◆ The South West also recorded the highest level of people saying that they had bought alcohol for a person under the age of 18 (16%), compared to the average of just 11%. The majority of this was bought by parents (63%) or other relatives (22%);
- ◆ 52% of respondents believe that better alcohol education would be the most effect tool to tackle underage drinking.

East of England

- ◆ The East of England had some of the highest levels of people saying they had bought alcohol for someone underage (15%);
- ◆ People from the East of England that had bought for someone underage were most likely to be an immediate family member (71%) or another relative (31%), some of the highest levels of any region;
- ◆ The majority of respondents in the East of England believed that better education (53%) would be the most effective way to tackle underage drinking.

Annex 2 – Retail of Alcohol Standards Group Members

Aldi UK & Ireland	Nisa Retail
Asda Stores Ltd	Rontec
Association of Convenience Stores	Sainsbury's Supermarkets Ltd
Booker	Snax 24
British Retail Consortium	Spar (UK) Limited
The Co-operative	Tesco Stores Limited
Conviviality Retail	Waitrose
Lidl UK GmbH	Wine and Spirit Trade Association
Marks and Spencer PLC	Wine Mark
Mills Group	WM Morrison Supermarkets PLC

Herefordshire Council Policy – Challenge 25

Challenge 25 is the industry standard in England and Wales

Sections 19.3, 23.14 & 23.28 of Herefordshire Council's Licensing Policy 2015-2020 explains the council's position on Challenge 25 –

19.3 To protect young people, the council should routinely undertake test purchasing to ensure the law is being adhered to. It should be noted the Licensing Authority supports the use of the Challenge 25 Policy and recommends this should be included as part of an applicant's operating schedule in any Premises Licence or Club Premises Certificate application. Please contact Trading Standards for further details.

23.14 Premises that sell alcohol should have due regard to proof of age schemes, and this Licensing Authority recommends that the Challenge 25 Policy be used (further details contact Trading Standards).

23.28 'Challenge 25'

It is unlawful to sell or supply alcohol to persons under the age of 18. Following test purchases operations within the county, it has been established that Challenge 21 has little effect. The Authority therefore requires premises within the county to operate a 'Challenge 25' policy, other than in exceptional circumstances.

