



**Response to the Revised  
Guidance made under Section  
182 of the Licensing Act 2003**

**DCMS  
Consultation 2007**

**Response of  
The Trading Standards Institute**

*April 2007*



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11 April 2007

Dear Simon,

Thank you for the opportunity to submit our comments on the Revised Guidance made under Section 182 of the Licensing Act 2003.

The Trading Standards Institute (TSI) is the professional body representing the views of Trading Standards professionals. With members in both the public and private sector, our aims are to promote excellence and enhance the professionalism of our members in support of informing consumers, encouraging honest business and tackling dishonest and unfair trading practices.

The work of Trading Standards Departments in relation to the Licensing Act is mainly concerned with their role as responsible authorities for the purpose of licence applications and in enforcing s146 in relation to age restricted sales. Therefore the most relevant questions for Trading Standards Departments within the Consultation are question 27 "Do you agree that Chapters 12 (Sale and Supply of Alcohol to Children) and 14 (Other Offences) should be deleted from the Guidance? And 28 "If you do not agree, please explain why."

It is the view of the Trading Standards Institute that Chapter 12 should remain.

Paragraph 12.3 deals with the issue of who is potentially liable under Section 146 of the Act mentioning that "a body corporate, partnership or unincorporated association ... may be the subject of proceedings for an offence under section 146".

However we would welcome further unequivocal guidance from the Government regarding corporate liability under section 146, as this still seems to be in dispute. Perhaps what is needed is an amendment to the Act itself.

Paragraph 12.8 makes reference to the PASS accreditation system for proof of age cards. We feel that this reference is important because it reiterates Government support for the scheme and helps to highlight the status of the cards issued with PASS approval.

Paragraph 12.10 makes reference to the offence of "knowingly to allow the sale (or supply) of alcohol to an individual aged under 18 on relevant premises" in section 147 of the Act. We would wish for further guidance in this instance as it is unclear where responsibility lies for the commission of the offence. The word "knowingly" suggests that officers will need to prove that mens rea was involved in the commission of the offence. However it is not clear whether this refers the person knowing the age of the intended purchaser to be under 18 and allowing the sale or to simply allowing the sale regardless of the age of the purchaser. We would also welcome guidance with regard to the role of the designated premises supervisor and individual personal licence holders.

Paragraph 12:18 makes reference to the need for all enforcement agencies to have regard to the updated LACORS Practical Guide to Test Purchasing. It is felt that the removal of this section of the guidance would be a negative step and make it more likely that alternative methods of operating test purchasing exercise might be used. This in turn might lead to more inconsistency within enforcement agencies causing confusion for traders.

In compiling this response, TSI has sought the view of our Lead Officer on Age Restricted Sales. If you require clarification on any of the following points, please do not hesitate to contact Sharon Sawyers, Lead Officer: Age Restricted Sales at [REDACTED] or telephone on [REDACTED] in the first instance.

Yours sincerely,



Ron Gainsford  
Chief Executive

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