



Staff Training Guidelines

Most retailers do endeavour to observe the law and the VSC provides its retailer members with a variety of in-store display items and these guidelines which have all been designed to assist the retailer to train staff and constantly remind staff and customers of the law relating video entertainment products and video games with particular reference to age-restricted titles.

Despite the very best efforts of the VSC and its retailer members mistakes can be made and prosecutions can result. Offences under the Video Recordings Act 1984 (as amended) used to be absolute offences under the law. It did not matter that all efforts had been made to comply with the law. Proof that an offence had been committed was all that was needed for a successful prosecution. The law did not distinguish between a retailer who had made an effort and a retailer who had not.

The law was changed in September 1993 and the defence of due diligence became available in prosecutions under the 1984 Act. In effect this defence means that the courts can recognise efforts made to comply with the law even though a mistake may have been made.

The due diligence defence means that it is a defence for a person charged with an offence to prove that all reasonable precautions were taken and all due diligence was exercised to avoid the commission of the offence by the person accused or a person under that person's control. This defence does not however reduce the effectiveness of the law and does not enable retailers to avoid their legal responsibilities. It is not a soft option.

The retailer must be able to demonstrate that positive action has been taken. Sitting back and doing nothing or the bare minimum will not suffice. All reasonable precautions must be taken to set up and operate a system of control which properly recognises all the risks involved.

Due diligence means what it says.

Local trading standards departments are the principal enforcement authority for the Act and after consultation with the trading standards authorities the VSC has established staff training guidelines which are designed to assist retailers. Compliance with the guidelines could prove to be an integral part of a legal defence in a prosecution where an unfortunate mistake has been made by a member of staff.

GUIDELINES

All staff must be made aware of the law relating to video entertainment products and video games with particular reference to age-restricted titles. It should be made very clear that the supply of an age-restricted title to a person below the specified age is a criminal offence and that breach of the law can result in the member of staff and/or the company being prosecuted.

All staff must receive proper instruction in regard to the law before they are permitted to serve on the counter or the checkout point where video entertainment products or video games are presented for purchase.

The instruction must be carried out either by a senior member of staff or via an appropriate method suitable for the training environment of the store concerned. The instruction may be part of an overall instruction procedure but care should be taken to ensure that the part of the instruction dealing with video entertainment products and video games and the law is distinct and prominent.

The instruction may be a separate document or may form part of an overall instruction manual or procedure but again care should be taken to ensure that the part of the instruction procedures dealing with video entertainment products and video games and the law is distinct and prominent.

It is recommended that after instruction has been given members of staff are required to complete a form of questionnaire or confirmation designed to ascertain that the instruction given has been properly understood.

Suitable written or electronic records of the staff instructed should be kept to prove that proper instruction has taken place.

The above requirements are to apply to all staff including temporary or part-time staff. Care should be taken to ensure that no staff are allowed to supply video entertainment products or video games without being properly instructed.

All staff should be assured that whenever they make a reasonable decision that a customer is, or could be, below a specified age and, as a result, refuse to supply an age-restricted video entertainment product or video game to such a person the decision will receive the full support of senior management.

REGULAR REMINDERS

All staff should be regularly reminded of the law relating to video entertainment products and video games and when such reminders are being carried out it should again be emphasised that the supply of age-restricted titles to a person below the specified age is a criminal offence and that breach of the law can result in the prosecution of the member of staff and/or the company.

Regular reminders are important and should be given at such intervals as may be necessary to ensure that the matter remains uppermost in the minds of staff members. Failure to give regular reminders may prejudice your due diligence defence.

It is important to keep a record of reminders given in order to prove that they have actually been given.

YOUNG MEMBERS OF STAFF

If members of staff under the age of 18 are permitted to supply video entertainment products or video games to customers then even greater care should be taken with the instruction and reminder system. It is strongly recommended that a safety procedure be implemented to emphasise to such staff that they should always refer to their manager/supervisor if they are in any doubt as to the age of a customer.

It is also strongly recommended that younger members of staff (under 18) are never left on their own to supply video entertainment products or video games to customers.

DISPLAYS

Details of the age rating symbols and their meanings should be prominently displayed in all retail outlets. Where video entertainment products and video games are supplied from stores which sell other products the details should be prominently displayed in the relevant section of the store. For stores which only supply video entertainment products and video games the details should be prominently displayed at the counter or check-out desk.

A prominent notice should also be displayed at the counter or check-out desk to the effect that it is illegal to supply age-restricted video entertainment products or video game titles to any person below the specified age.

PROOF OF AGE

Unless it is very clear that a customer is over the age of 18 then at least one proof of age document should be asked for before such a customer is supplied.

Retailers are strongly recommended to adopt a policy whereby if a customer appears to be under the age of 21 then proof of age will be asked for.

Retailers are advised to accept the following forms of identification:

UK Photo Driving License

Passport

Identification carrying the PASS (Proof of Age Standards Scheme) hologram.

If there is any doubt at all concerning the age of any customers then they should not be supplied with age-restricted titles.

BEHIND THE COUNTER

In some stores 'live' products are put on the shelves. In many other stores only the empty case or box is put on display and when the customer presents this to the member of staff the actual product itself must be selected from storage area behind the counter.

In such instances, where practicable within the store environment, a prominent notice should be displayed behind the counter or in the storage area reminding staff that age-restricted products must not be supplied to persons below the specified ages. The manner in which this notice is displayed may vary from store to store depending upon the method of storage or selection used.

The store may also choose to implement an electronic till prompt reminder to staff that products are age restricted.

REFUSALS LOG

It is recommended that a log is kept whenever a customer is refused an age-restricted product upon the basis that the customer is, or could be, below the specified age. Such a log should be regularly checked by a senior member of staff at such intervals as may be necessary to ensure that it is being used

correctly and diligently by members of staff. The maintenance of such a record will be useful in demonstrating that due diligence has been exercised in the event of a threatened prosecution.

The refusals log should also be used to identify members of staff who perhaps need more stringent training. Members of staff who never or infrequently refuse to supply a customer may not be taking the issue seriously enough.

RESPONSIBILITY

A senior member of staff at each store should be made directly responsible for ensuring that all procedures are properly carried out in regard to video entertainment products and video games and the law and that all required notices and displays are being used.

A senior member of staff at each video store should be the initial contact with the local trading standards department and trading standards officers in respect of any matters concerning the Video Recordings Act 1984. In the absence of a specific appointee the manager of each video store shall have such responsibility.

ACTION POINTS

- Check your existing systems and staff training procedures to ensure that they fall within the framework of the VSC guidelines. If they do not, change them without delay to ensure that they do.
- Make sure that all managers and senior staff (particularly those having responsibility for staff training) are made fully aware of the VSC guidelines and the reasons for them.
- Use the support and advice available through the trading standards service.

Local Authority Trading Standards Departments are there to help you to comply with the law and contacting them can help to prevent problems occurring. They have considerable experience, both in enforcing video/games legislation and the operation of due diligence systems which will be of great value to video/games retailers.

- Any retailer having stores throughout the country or in different local authority areas should establish who their home authority is.

The home authority will most likely be that authority for the area in which your head office or administrative centre is based

Discuss with your home authority how you intend to implement the VSC guidelines.

Trading standards departments subscribe to the home authority principle which means that one authority takes the lead in advising a

retailer. A retailer can accordingly approach one authority for advice rather than having to agree systems and procedures with every authority in whose area the retailer has a shop.

If you experience any problems concerning your systems and procedures operated in a shop in any local authority area outside your home authority area then these problems can be referred to your home authority. Usually systems and procedures accepted by your home authority will be accepted by other local authorities.

- Contact the VSC if you experience any difficulties or if any home authority requires systems and procedures which significantly exceed or differ from those required by these guidelines.