



The  
**Video Standards Council**

## **CODE OF PRACTICE (2014 edition)**

### **INTRODUCTION**

1. The Video Standards Council ('VSC') is a non-profit-making company limited by guarantee not having a share capital and was registered in England and Wales on the 11th July 1989. The VSC administers a registration scheme whereby members of the video entertainment and video games industries in the United Kingdom register as members of and agree to abide by a Code of Practice ('Code').

The video entertainment industry refers to both pre-recorded packaged media (including VHS cassette, DVD, Blu-ray disc, UMD) and the digital supply of audiovisual content.

The video games industry refers to both packaged media and the online supply of interactive video games.

The Code has been designed to promote high standards within the video entertainment and video games industries and otherwise to ensure that audiovisual content and video games are supplied to the public in a responsible manner. Such supply includes the supply of physical products, soliciting orders online for the supply of physical products and digital supply by way of download, streaming or otherwise supplying audiovisual content and video games for playing online.

2. The VSC is a self-regulatory body whose affairs are overseen by a Committee and managed by a Director General and executive team.
3. The main objective of the VSC in introducing the Code is to secure from registered members of the Code ('Members') a high degree of commitment to proper standards of conduct and to encourage observance of these standards in the supply of video entertainment products and video games for the benefit of the consumer. The Code is intended to complement legislation in force from time to time relating to all aspects of the video entertainment and video games industries. The Code will be reviewed and amended from time to time to take account of changing social conditions, legislation and public attitudes.

4. The Code also seeks to complement other codes of practice which are already well established in the business community.

## **ADMINISTRATION OF THE CODE**

1. The Code has been approved by the Committee of the VSC. The Code will be reviewed, discussed and (where necessary) amended by the Committee upon a regular basis (or at least upon a 3 yearly basis).
2. The members of the Committee may be replaced from time to time by election in accordance with the Articles of Association of the VSC.
3. The Committee's responsibilities shall include the administration of the Code; the continuous review and, as necessary, amendment of the Code; the investigation of complaints made to the VSC by Members, members of the public and others; the resolution of disputes arising as a result of alleged breaches of the Code; the administration of the registration scheme for membership of the Code and other activities concerned with the promotion of high standards in the video entertainment and video games industries.
4. The responsibilities of the Committee may be carried out by the Committee; individual members of the Committee; sub-committees of the Committee; the Director General of the VSC or others employed or engaged by the VSC.

## **MEMBERSHIP REGISTRATION SCHEME**

1. All business concerns and individuals involved in the supply of video entertainment products and video games in the United Kingdom will be invited to apply for membership of the Code for an annual subscription prescribed by the Committee. Applications shall be made to the Director General of the VSC at the address given on the Form of Application provided.
2. Subscription fees may differ according to the category of membership being applied for. Details of the various rates of subscription fees are available upon request from the Director General of the VSC.
3. Members will be required to agree to abide by the Code. All applicants for membership will be required to complete an undertaking on the Form of Application to this effect.

## **COMPLAINTS & DISPUTES PROCEDURE**

1. The Director General of the VSC will refer to the Complaints Board all complaints received by the VSC in regard to any alleged breach of the Code of Practice Rules ('Rules') which are considered to be of a serious nature. Such complaints will be received at no charge. The

Complaints Board will consist of the Director General and four members of the Committee.

2. Complaints must be made in writing to the Director General of the VSC and an indication must be given of which requirement of the Rules the complainant believes has been breached. The complainant may request that his/her identity remain anonymous. The Complaints Board may decide not to investigate or deal with a complaint which either is or may become the subject of legal proceedings.
3. Subject to the above the Complaints Board will investigate all complaints received by it and will notify in writing the party against whom any complaint has been made as soon as practicable after such complaint is received by the Director General.
4. The party against whom the complaint has been made will be given a proper opportunity to offer an explanation if so required either verbally or in writing.
5. The Complaints Board may invite the attendance of the party against whom the complaint has been registered for examination before the Complaints Board. Prior to such examination the Complaints Board will, as appropriate, make available to such party all documents and other papers it has received from the complainant in relation to such complaint. The party will then have an opportunity to answer the complaint and make representations to the Complaints Board and may nominate a person or persons to make such representations to the Complaints Board on his/her behalf.
6. After consideration of all the relevant factors the Complaints Board may:-
  - Consider the alleged breach of the Rules to be unfounded and advise the party against whom the allegation was made and the complainant to this effect.
  - Consider the alleged breach of the Rules to have actually taken place but to have been of such a nature as to merit no further action and advise the party against whom the allegation was made and the complainant to this effect.
  - Consider the alleged breach of the Rules to have actually taken place and give a formal written warning to the party against whom the allegation was made and notify the complainant of such formal written warning.
  - Consider the alleged breach of the Rules to have actually taken place and require the party against whom the allegation was made to give a written undertaking to the VSC to refrain from doing the act complained of.

- Take such further action as the Complaints Board considers in all the circumstances to be necessary and appropriate.
7. In the event that a Member fails to abide by the Rules or fails to take proper action as a result of being given a written warning by the VSC or fails to give or abide by a written undertaking requested by the VSC, the VSC shall take such action as it deems necessary including revoking the membership of the Member forthwith without a refund of the subscription fee.
  8. In the event that a Member is expelled from membership of the Code an appeal procedure is available whereby the President of the Law Society may nominate an individual to preside at a hearing at which the appealing party will have an opportunity to state his/her case. The decision of the individual nominated under this appeal procedure will be final and conclusive.

### **ADVISORY SERVICE**

1. The VSC will give advice on the interpretation of all aspects of the Code and Rules. Written requests for advice should be addressed to the Director General of the VSC.

### **CODE OF PRACTICE RULES**

1. Members must at all times comply with all aspects of the law having particular regard to the provisions of the Video Recordings Act 1984 (as amended).
2. Members must at all times refrain from trading in or making use of illegal or counterfeit product.
3. Members will have a duty when dealing with their customers to trade legally, honestly, decently and truthfully.
4. Members will have a duty to take all reasonable action to ensure that age restricted video entertainment products and video games are not supplied or offered for supply either as physical products or online to persons under the specified ages.
5. Members will to the best of their ability comply with the Code of Practice Guidelines.

## **CODE OF PRACTICE GUIDELINES**

To assist Members in the observance of the Code of Practice Rules the VSC has established these Guidelines to indicate to Members the business and trading practices they should follow in order to comply with the Rules and how the Rules will be interpreted in practice and by a Complaints Board.

The Guidelines are divided into sections with each section dealing with different types of Members. It is recognised that some Members may be required to comply with more than one of the sections.

### **Section 1**

#### **Members supplying to the trade and not supplying directly to the public**

1. Members must ensure that all video entertainment products or video games supplied comply with the law and in particular the Video Recordings Act 1984 (as amended) and are age rated by the relevant age rating authority unless any such video entertainment product or video game is exempt from any legally enforceable age rating process.
2. Members must ensure that the labels and packaging for all video entertainment products and video games supplied (other than those exempt from legal age rating) clearly show the correct age rating symbols and otherwise comply with the Video Recordings Act 1984 (as amended) and any associated legally enforceable Regulations.
3. Members must have all proper regard to the law relating to any video entertainment product or video game considered to be exempt from legal age rating and must clearly mark the packaging of any such video entertainment product or video game considered to be exempt with an unofficial 'E' or such other markings to indicate such exemption.
4. Members must promptly notify their customers where any problem or matter arises in regard to any video entertainment product or video game supplied by them which may expose their customers to criminal prosecution or civil liability to enable their customers to take action to avoid such exposure.
5. It is recommended that Members do not supply any promotional items for any video entertainment product or video games having an age rating higher than 12 for showing or playing in retail premises or other public places to which persons under the age of 15 have access.
6. Members must not supply their customers with posters, advertising or other display materials of an extremely violent, sexual or offensive nature for use in retail premise which may contravene the law or which otherwise do not comply with the rules and regulations specified by the

Advertising Standards Authority. In cases of doubt Members will obtain the advice of the ASA prior to supplying any such materials.

## **Section 2**

### **Members supplying to the public from retail shops**

1. Members must take all steps necessary to ensure that they or their staff do not supply video entertainment products or video games given an age-restricted age rating in accordance with the Video Recordings Act 1984 (as amended) to persons below the specified ages.
2. Members must only supply to their customers video entertainment products and video games which have been legally age rated in accordance with the Video Recordings Act 1984 (as amended) or which are exempt from legal age rating where the packaging is marked with an unofficial 'E' or such other markings to indicate such exemption.
3. Members must exercise caution in the use of any materials, including posters and displays, of a violent, sexual or possibly offensive nature in their retail premises having particular regard to the likelihood of such materials being seen by young persons.
4. Members must exercise caution when playing or demonstrating video entertainment products or video games which have been legally age rated above 12 in retail premises or other public places to which persons under the age of 15 have access.
5. Members will not play or demonstrate video entertainment products or video games having an age rating of 18 in retail premises unless persons under the age of 18 are excluded from such retail premises.
6. Members must prominently display details of the age rating symbols required by the Video Recordings Act 1984 (as amended) in their retail premises.
7. Members must ensure that their staff are fully trained (and receive regular reminder training) in accordance with the VSC Staff Training Guidelines before they are permitted to supply video entertainment products or video games to the public.

## **Section 3**

### **Members supplying to the public other than from retail shops**

For clarification purposes this section deals with supply to the public where there is no direct (face to face) contact with the public or customers, orders are placed by mail, telephone or online and physical products are despatched to the public or customers through the mail. It will also include digital supply by

way of download, streaming or otherwise supplying video entertainment products and video games for playing online ('digital supply').

1. Members must take all reasonable steps necessary to ensure that they do not supply physical or digital video entertainment products or video games) given an age-restricted age rating in accordance with the Video Recordings Act 1984 (as amended) to persons below the specified ages.
2. Members must take all reasonable steps to ensure that they do not supply or make available video entertainment products or video games by way of mail order or digital supply to persons below the specified age rating (given by a recognised age rating body) irrespective of whether such age ratings have been given in accordance with the Video Recordings Act 1984 (as amended).
3. Members must take all reasonable steps to ensure that whenever they supply or make available any video entertainment products or video game by way of mail order or digital supply that the applicable age rating is shown in advance to enable the consumer to make an informed decision as to whether they wish to be supplied with or play the video entertainment product or video game concerned.
4. Members must take reasonable steps to verify the age of any person attempting to purchase 18 rated video entertainment products or video games by way of mail order or digital supply, who is not using a credit card to purchase such items. As a minimum such purchasers must verify their age online and where practicable within the parameters of normal business practices retailers should verify the age of the purchaser either at the point of sale or point of delivery. Members are recommended to consult with their local trading standards home authority to verify that the checking procedures put in place are sufficient to demonstrate all due diligence.
5. Members must not in their consumer advertising or otherwise use materials of an extremely sexual or violent nature in such a manner as to cause offence to a reasonable person.
6. Members must in all consumer advertising clearly and understandably explain any commitment to be made by a customer, and all costs to be incurred by a customer, including postage and packaging, must be clearly stated.
7. Members must not use any consumer advertising which could tend to confuse the consumer as to the identity of the advertiser or which makes derogatory statements or criticisms in regard to any competing offer.

## **Section 4**

### **Members who specialise in facilitating the playing of video games in mobile or in static locations**

- Members must ensure that any person playing any video game is not below the age rating of the video game concerned.
- Where the video game being played is rated 12 or 16 members must exercise caution in regard to the ages of other persons permitted to enter the mobile or static location and view the game being played.
- Where the video game being played is rated 18 members must ensure that nobody under the age of 18 is permitted to enter the mobile or static location and view the game being played.
- Where it is possible for the general public or an invited audience to view a video game being played from outside the mobile or static location then members will ensure that no video game rated 18 is played in such circumstances unless the member can ensure that the general public or invited audience concerned are all over the age of 18.
- Members must comply with all child protection legislation and procedures.

### **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 BOOK**

It is recommended that a record 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 record 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 record 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.