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www.servelegal.co.uk
Businesses seeking to establish a Primary Authority Partnership with Buckinghamshire or Surrey County Council Trading Standards should contact:
business.advice@surreycc.gov.uk

OVER 18?
You must be over 18 to purchase e-cigarettes and associated liquids



In a new series of exclusive features in Vapour Magazine, Serve Legal, the UK's leading independent age compliance audit company, explains how it is on a mission to help the industry's retailers trade responsibly and legally by keeping vaping products out of the hands of young people under 18 years of age.

Serve Legal

Independent test purchase service for retailers of age restricted products across the UK & Ireland to check your staff are checking young people for ID.

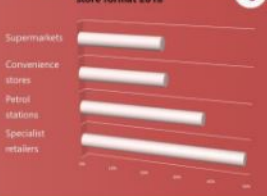
In early 2006, Ed Heaver and Julian Sargeason were alcohol retailers with a problem. A local authority decided that one of their sites was consistently serving underage people. Wave after wave of 'tings' resulted in them losing a licence, costing them £25,000 per week in lost sales. Unfortunately, they had no way of fighting back. They wanted to check their staff, measure site performance and demonstrate to the local authority that they were taking the issue seriously – but they couldn't find a company providing a cost-effective service. Spotting a gap in the market, they created one themselves and Serve Legal was born.

While traditional mystery shopping companies ran phone-based operations constructed on normal 9-5 hours, Serve Legal recognised that the best way to audit compliance was to recruit young-looking people to visit sites 'out of hours', purchase age-restricted products and report their findings.



Philip Le Shirley
Trading Standards

Challenge 25 e-cig purchase failure rates by store format 2018



13 years of rapid growth and 1.2 million audits later, Serve Legal is the leading provider of retail compliance auditing services in the UK & Ireland, is Trading Standards approved and is seeking to expand into overseas markets. During that time, its remit has expanded beyond alcohol into e-cigarettes, tobacco, gambling, knives, energy drinks, allergens, fireworks, media broadcasting compliance and more. The company provides extensive independent audit services to retailers, leisure operators and sports broadcasters to check that key operational and compliance standards are being adhered to across different areas of their business. Its highly accurate site audits help clients protect revenues and reputation, improve operational standards and training, as well as supporting responsible retailing.

Operating at scale to conduct in excess of 120,000 audits every year, Serve Legal deploys an army of mystery shoppers or 'visitors' to conduct different formats of auditing to meet their clients' specific needs, from buying a wide range of age-restricted products to checking adherence to allergen procedures in cafes and restaurants. When carrying out age-restricted audits, its community of young-looking 18 and 19 year olds purchase an item and record key information about the transaction, including whether photo ID was requested and if so when during the transaction, a description of the server, a till receipt and other key facts; at times expanding to assessing the quality of customer service. It is law that every customer who looks like they could be

18 years or younger should be asked to provide photo ID to complete the transaction. And every Serve Legal auditor fits that brief. At its simplest level, where auditors are asked to show official ID, the sites pass. If they buy items without ID being requested at the right time, the site fails. Only passports, photo card driving licences or PASS-accredited identification are acceptable as proof of age.

Entry into the vaping market
In 2017, Serve Legal began auditing the fledgling e-cigarette market. Following the same trend as when the company began auditing age checks for alcohol retailers, the supermarkets were early adopters with others following.

By 2018, Serve Legal deployed a record 3,675 teenage mystery shoppers to stores across the UK to buy vaping products to audit retailers' performance around age checks. Whether shopping in a supermarket, convenience store or specialist vape store, every single one of the mystery shoppers should have been identified by shop staff for proof that they were 18 before handing them the goods, making or refusing the sale. But that simply didn't happen. More than one in three (35%) were sold vaping equipment without being asked for age identification, even where retailers have voluntarily adopted an additional level of enforcement by operating a Challenge 21 or Challenge 25 policy. Adherence to these policies requires staff to ask customers who appear to be either 21/25 years old or younger to produce proof

that they are 18+.
Worryingly, it was specialist retailers (vape stores) that performed the worst, failing 49% of Challenge 25 audits. Petrol stations failed 37% of audits and convenience stores failed 26%. Supermarkets performed the best of all retailer types but still sold e-cigarettes to 25% of young mystery shoppers without age checks. Supermarkets have been operating Challenge 21/25 policies for many years across their range of age-restricted products and the positive, well established safeguarding habits associated with legacy age-restricted products like alcohol and tobacco have to be reiterated and reinforced when new products enter the marketplace.

Audit pass rates varied widely across the UK in 2018, with the highest in Scotland and South Central England (75%) and the lowest in the North East and Northern Ireland (54%). Of concern is that pass rates are in decline. While commitment to independent auditing rose by 78% between 2017 (787 audits) and 2018 (1,675 audits), pass rates dropped from 70% to 65%.

Fortunately for the retailers and shop staff that sold those vaping products without asking for proof of age, the mystery shoppers weren't endangering, therefore no laws were broken. However, the implications of taking a lax approach to age verification could represent a significant threat to the vaping industry's credibility. Serve Legal's findings are a wake-up call for retailers to

take decisive action. Those found by Trading Standards or the police to be selling age-restricted items to under 18s face the risk of prosecution, fines for both store owners and individual staff members, and even possible business closure for a repeated offence.

Ed Heaver, Director at Serve Legal: "Our audit data for 2018 reveals a prevalent, negative trend around e-cigarette sales to young people without age checks. This is a growing area of risk for retailers and there is no part of the market that is performing well. Nicotine inhaling devices, cartridges and refills are all age 18-restricted products and it is particularly concerning to see specialist vape stores falling so many independent Challenge 25 audits."

"The vaping industry is in its infancy but growing fast and we want to provide a valued role in helping and supporting retailers, as we have done with those

selling other age-restricted products. Independent auditing of age checks is an insurance policy - it improves compliance which reduces the likelihood of staff breaking the law or falling foul of a sting by local police or Trading Standards. Without implementing a rigorous, consistent policy on age checks, vape retailers are at high risk of making underage sales."

Consumer research conducted by Census wide on behalf of Serve Legal in May this year, with over 2,000 people aged 18+ responding, suggests that reputation and sales are also at risk for retailers that act irresponsibly around underage sales. More than one in three (34.5%) said they would report a store to the police or Trading Standards if they found out or saw first-hand that it was selling age-restricted products to young people without checking ID. One in ten said they would boycott a store altogether. Considering how quickly negative

messages might spread on social media, this could have a detrimental impact on smaller, independent vaping companies, while alerting the authorities to potential targets.

By way of comparison, the picture for tobacco retailers is one of consistent improvement. Pass rates for mystery shopper tobacco audits have improved every year for the last three years, reaching an all-time high of 76% in 2018. Retailers commissioned more than twice as many tobacco audits in 2018 (7,536) as they did for e-cigarettes (3,675). Alcohol retailers, meanwhile, commissioned over 50,000 independent audits with Serve Legal last year, achieving pass rates of 80% and higher for the last six years.

For internet retailers, including those that sell vaping products online, the picture is less favourable again. In 2018, 4,395 young Serve Legal mystery shoppers ordered age-restricted goods, including vaping products, from online retailers and mail order companies. Half (51%) took delivery of their order without being asked for proof of age, either at the point of purchase or on the doorstep.

Ed Heaver: "There has been very little improvement in compliance around age checks in recent years by online retailers and the delivery partners upon which they depend. There is an urgent need for regulation of those operating in the online retail space around sales and deliveries of age-restricted goods, and for tougher sanctions where the law is being broken."

How Serve Legal works with retailers
For retailers that have not measured staff performance around age checks before, either internally or independently, Serve Legal is a long-established and experienced partner. Every client works closely with a dedicated account manager who spends time getting to know the business to achieve the desired outcome. The Serve Legal team manages the auditing process from start to finish, deploying experienced auditors wherever needed, with accurate, reliable reports delivered within 24 hours of audits being completed. Account managers provide supportive, strategic recommendations based on audit results and Serve Legal delivers bespoke staff, management and operational training packages where

requested, for vaping manufacturers and their retail partners.
The training may take the form of on-site, interactive presentations for groups ranging from 5-40 members of staff from multiple retail outlets, all of whom wish to improve their knowledge, awareness and compliance of their chosen age verification strategy or policy, be that for under 18 or Challenge 21/25. Meeting the Serve Legal team helps retailers appreciate that its purpose is not to 'catch anyone out', but instead to support them in delivering against the promises they make to their customers and the communities in which they operate, to not sell products to young people and children under 18 years of age.

Many of the manufacturers and retailers Serve Legal works with build its data into their shop floor training and in-store operational systems to improve performance and ensure they're not breaking the law.

Partnership with JUUL UK
JUUL UK operates a strict Challenge 25 policy for all retailers that stock its products. This means that store staff must ask every JUUL customer that appears to be 25 years older younger to verify with approved age identification that they are 18+.

The company takes its commitment to responsible retailing seriously, stating: "We want to be part of the solution to and combat smoking, not part of a problem to attract youth... to nicotine products." (JUUL UK website)

JUUL UK appointed Serve Legal to measure the performance of its youth prevention controls, primarily its Challenge 25 policy. Hundreds of young-looking 18 and 19 year old mystery shoppers are deployed to JUUL's network of stockists - from vaping stores to supermarkets - across the UK every month, buying JUUL products and reporting back on their experience. The data enables JUUL to focus its attention on those retailers which require support and training around its age verification policy.

Under its reseller terms, JUUL enforces penalties for store owners and managers that fail to comply with underage restrictions. Speaking to Vapour

Magazine last year in 2019 about the company's 'three strikes and out' approach, JUUL UK sales director John Patterson explained: "Every retailer, big or small, has to sign up to JUUL's Challenge 25 policy and failure to comply on three separate occasions will result in suspension of their account. We do not want to suspend trading with stores and work with them during checks to train staff in age verification procedures to help them pass next time they audit." "Through our work with JUUL Labs, we have suspended the JUUL accounts of 16 vape stores and JUUL Labs is working with retailers who have failed our compliance test on one or two occasions to help ensure that they understand the age verification process and what they have to do to pass their next Challenge 25 audit."

For JUUL UK, Challenge 25 is an important part of professionalising the vaping industry. John Patterson again in Vapour Magazine: "Challenge 25 should be the industry standard - not only the JUUL standard - and ensuring the UKVIA adopted Challenge 25 across the industry was the defining factor in JUUL joining the association."

Ed Heaver concurs: "Challenge 21 and 25 are well-established initiatives and should be standard practice for sales of any age-restricted products. With a combination of rigorous staff training, efficient operational and management systems, and commitment to independent auditing programmes, we're confident that vape retailers will improve their performance around age checks. Progress which would be regarded as a positive for all involved."

The UKVIA has made it clear that responsible retailing is vital to the industry's reputation, credibility and future growth. Nearly half of the principles of the association's code of conduct, which full members agree to abide by, are dedicated to preventing underage sales and marketing. In a debate about the extent to which the vaping industry has a young people problem at this year's UKVIA Forum, Serve Legal Director Ed Heaver argued that independent auditing demonstrates to the authorities that a retailer takes underage sales seriously because retailers that introduce regular audit programmes see compliance levels improve steadily

over time.
"Auditing isn't a silver bullet, nonetheless, consistently testing staff and procedures provides evidence that progress is either being made or something needs fixing. Without the data and insight that independent auditing provides, you are operating in a vortex of ignorance and hope, rather than being informed and in control."

Joining Ed Heaver as a panellist at the UKVIA Forum in May was Philip LeShirley, Senior Trading Standards Specialist at Buckinghamshire and Surrey Trading Standards, which is now in a Primary Authority Partnership with the UKVIA. Phil says: "Trading Standards is committed to both supporting businesses and protecting consumers. This partnership provides a valuable opportunity for us to explore together how we can develop advice and support for UKVIA members selling vaping products, ensuring that only age 18+ only sold to adults. With continuously changing technology and evolving purchasing habits, such advice must include the various challenges of both online and face-to-face sales."

Conclusion
In 2006 when Serve Legal was founded, underage sales were a taboo subject and politically sensitive. Many retailers didn't want to admit they had a problem, but through Serve Legal's collaborative approach, audit report quality and audit positioning between client and local authority/government, it has been able to build trust and credibility with all parties. Where in the past, retailers may have approached Serve Legal with a 'panic purchase' following an authority investigation or prosecution, clients now take a strategic organisational approach to independent auditing.

Austerity measures have seen a reduction in compliance testing by local authorities and police services, which are now likely to be conducted as 'spot checks' based on intelligence, with stiff consequences for those breaking the law. Retailers are now expected to demonstrate a higher degree of self-regulation. This is the opportunity that now presents itself to the vaping industry - to demonstrate its commitment to and ownership of adopting and implementing best practice.

