

AGENDA SUPPLEMENT

Licensing/Gambling Hearing

To: Councillors Looker, Hook and Orrell

Date: Monday, 18 October 2021

Time: 10.00 am

Venue: Remote Meeting

The Agenda for the above meeting was published on 8 October 2021.
The attached additional documents are now available for the following agenda item:

- 5. The Determination of a Section 35(3)(a) (Pages 1 - 82)**
Application by Co-operative Group Food Ltd
for Variation of a Premises Licence in
respect of Co-op, 102 - 104 Hull Road, York,
YO10 3LQ (CYC-11715)

Additional documents submitted by the
Applicant.

This agenda supplement was published on 12 October
2021.

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Licensing Hearing 18 October 2021

Additional documents submitted by the Applicant

- Judgement in Taylor v Manchester City Council TCG Bars Ltd.
- Co-op New Colleague Welcome Pack
- Co-op 'Age Matters' guidance

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England and Wales High Court (Administrative Court) Decisions

You are here: [BAILII](#) >> [Databases](#) >> [England and Wales High Court \(Administrative Court\) Decisions](#) >> Taylor v Manchester City Council TCG Bars Ltd [2012] EWHC 3467 (Admin) (07 December 2012)
URL: <http://www.bailii.org/ew/cases/EWHC/Admin/2012/3467.html>
Cite as: [2012] EWHC 3467 (Admin)

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Neutral Citation Number: [2012] EWHC 3467 (Admin)

Case No: CO/5736/2012

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT IN MANCHESTER
(ON APPEAL FROM THE MANCHESTER AND SALFORD MAGISTRATES' COURT BY WAY OF CASE
STATED)

Leeds Combined Court,
1 Oxford Row, Leeds LS1 3BG
07/12/2012

Before:

MR JUSTICE HICKINBOTTOM

Between:

MATTHEW TAYLOR

Appellant

- and -

**MANCHESTER CITY COUNCIL
TCG BARS LIMITED**

Respondents

Jeremy Phillips (instructed by LR Law) for the Appellant
Sarah Clover (instructed by Susan Orrell, City Solicitor, Manchester City Council)
for the First Respondent

The Second Respondents were not represented and did not appear.
Hearing date: 26 November 2012

HTML VERSION OF JUDGMENT

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Mr Justice Hickinbottom:

Introduction

1. When and to what extent, if at all, can an application to vary a licence under the Licensing Act 2003 be amended?
2. That is an important question in practice, because many applicants seek to change their proposed variation in the light of representations they receive objecting to it or some part of it. It is a question which, as I understand it, has never before been addressed by the courts.
3. The question comes before this court in the form of a case stated by Deputy District Judge Robinson sitting in the Manchester and Salford Magistrates' Court. On 8 and 9 March 2012, he heard an appeal by the Appellant Matthew Taylor against a decision of the Licensing Sub-Committee of the First Respondent Manchester City Council ("the Council"), taken on 7 October 2011, to grant a variation to a premises licence relating to premises known as Via in Canal Street, Manchester. The Second Respondents TCG Bars Limited ("TCG Bars") owned and operated Via, and were the premises licence holder.
4. As a preliminary issue, Mr Taylor contended that the Council had acted unlawfully because TCG Bars had significantly revised their application after the statutory period of advertisement and consultation had expired, meaning that responsible authorities (such as the Council's own Environmental Health Department) and local residents had no reasonable notice of the revision and no proper opportunity of making representations in respect of it.
5. The Deputy District Judge held that the Council did not act unlawfully, and Mr Taylor appealed that decision to this court by way of case stated dated 14 May 2012. In paragraph 52 of the Case Stated, the Deputy District Judge poses the following question for this court:

"Given the variance between the application to vary the premises licence originally advertised and the revised scheme, and the timing of those revisions, was I correct in ruling that it was lawful for [the Council] to proceed to determine [TCG Bars'] application in accordance with section 35 of the Licensing Act 2003?"

The Licensing Act 2003

6. In this judgment, all statutory references are to the Licensing Act 2003, unless otherwise indicated.
7. The Licensing Act 2003, which came into force on 24 November 2005, radically changed licensing in England and Wales. Until then, there had been a patchwork of licensing systems, under which alcohol licences were granted by licensing justices, reflecting their historical role in maintaining the peace; whilst other licensing functions, such as entertainment, were in the administrative province of local councils.
8. The 2003 Act created a single system, in which magistrates were relieved of their administrative licensing responsibilities, in favour of local authorities. The White Paper which led to the reforms ("Time for Reform: Proposals for the Modernisation of Our Licensing Laws" (Cm 4696) (April 2000)) identified three reasons for the transfer of all licensing functions to local councils, as follows (paragraph 123):

"...

- o Accountability: we strongly believe that the licensing authority should be accountable to local residents whose lives are fundamentally affected by the decisions taken.
- o Accessibility: many local residents may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors.
- o Crime and disorder: Local authorities now have a leading statutory role in preventing local crime and disorder, and the link between

alcohol and crime persuasively argues for them to have a similar lead on licensing."

The first bullet point emphasises that licensing decisions were to be regarded as administrative decisions, taken in the public interest and subject to political accountability.

9. The role of a licensing authority under the 2003 Act was recently considered by the Court of Appeal in R (Hope and Glory Public House Limited) v City of Westminster [2011] EWCA Civ 31 ("Hope and Glory Public House"). Having rehearsed the history behind the Act, Toulson LJ, giving the judgment of the court, said (at [41]-[42]):

"41. ... [T]he licensing function of a licensing authority is an administrative function. By contrast, the function of the district judge is a judicial function. The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of a power delegated by the people as a whole to decide what the public interest requires....

42. Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the 'heads or tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact."

That chimes with the White Paper, Toulson LJ again stressing the essentially evaluative nature of the decision making process in most licensing matters, which demands a complex balancing exercise, involving particularly the requirements of various strands of the public interest in the specific circumstances, including the specific locality. He also marked the fact that Parliament has determined that, in this context, local authorities are best placed to make decisions of that nature.

10. The administrative nature of a licensing authority's function is also emphasised by, e.g., regulation 23 of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No 44) ("the Hearing Regulations"), which provides that the hearing of an application "shall take the form of a discussion led by the authority..." and forbids cross-examination except in limited circumstances.
11. However, the justices still have a role to play in the new scheme. The main sanction for those who fail to comply with the new licensing laws is criminal, and magistrates have retained responsibility for dealing with people charged with offences under the licensing laws, as well as having an appellate function from licensing decisions of the relevant local authority.
12. The basic mechanism for regulation of the relevant activities is as follows. By section 2 of the 2003 Act, "licensable activities" can only be carried on under and in accordance with a "premises licence" issued by a "licensing authority", defined in section 3(1) usually to be the relevant local council; and section 136 imposes a criminal sanction on those who carry on licensable activities otherwise than under and in accordance with such a licence. "Licensable activities" include the retail sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment (section 1(1)).
13. Section 4 is also an important provision. Under it, a licensing authority must carry out its functions under the Act (and hence must determine any licensing decision it has to make) with a view to promoting the following "licensing objectives":
 - (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and

(d) the protection of children from harm.

It is noteworthy that all of these objectives are essentially concerned with the public interest; although, of course, evidence of how a licence might affect individuals may be relevant to the assessment of that public interest.

14. By section 4(3), in exercising those functions, the authority must also have regard to both:

i) Guidance issued by the Secretary of State under section 182, which requires her to issue such guidance. The relevant version for the purposes of this appeal, which I shall refer to as simply "the section 182 Guidance", was issued in April 2012. It has now been replaced by new guidance issued in October 2012.

ii) The authority's own licensing statement published under section 5, which requires each authority to publish a statement of licensing policy regularly, at the relevant time for a period of three years and now (by virtue of section 122 of the Police Reform and Social Responsibility Act 2011) for a period of five years. The Council's current Statement of Licensing Policy ("the Council's Statement of Licensing Policy") covers the period 2011-14.

15. The licensing functions of an authority are in practice delegated to a licensing committee or sub-committee (sections 6 and 7). In the Council's case, they have established a Licensing Committee of 15 Council Members, with any application that requires a decision being determined by a Sub-Committee of three members of the Licensing Committee at a hearing (paragraph 3.36 of the Council's Statement of Licensing Policy).
16. As Mr Phillips submitted, the regime is essentially a permissive one, generally allowing anyone to carry out "licensable activities" in an unfettered way by requiring the licensing authority to grant or vary a licence on application, unless the decision making powers of the licensing authority are triggered – by, e.g., representations being made on an application to vary – whereupon the authority must take a decision in response to the application based upon the promotion of the licensing objectives. However, even then, the steps it has power to take are limited to those specifically identified in the scheme.
17. Section 17 sets out the procedure for making an application for a new licence. Section 17(3) requires an application to be accompanied by "a plan of the premises to which the application relates, in the prescribed form". Section 17(5) provides that the Secretary of State must by regulations require the applicant and the licensing authority to advertise the application for a prescribed period and in a prescribed manner, and "prescribe a period during which interested parties and responsible authorities may make representations to the relevant licensing authority about the application". "Interested parties" are defined in section 13(3) as including a person living in the vicinity of the premises. (Under section 105 of the Police Reform and Social Responsibility Act 2011, "interested parties" has now been substituted by "persons who live, or are involved in a business, in the relevant licensing area"; but that change has no relevance to this appeal). "Responsible authorities" are defined in section 13(4) to include relevant local weights and measures, police, fire, rescue, health, environmental health and planning authorities.
18. An application must also put forward an individual as the "designated premises supervisor", and no supply of alcohol can be made under a licence unless there is such a supervisor named in the licence and he has a current "personal licence" in accordance with Part 6 of the 2003 Act (sections 15 and 19). Personal licences form no part of this appeal, and I need not say anything further about them; except that, since May 2010, the designated premises supervisor for the premises at 28-30 Canal Street has been Anthony Cooper.
19. The Secretary of State has made procedural regulations in respect of applications for premises licences in the form of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005 No 42) ("the Premises Regulations"), as well as the Hearing Regulations.
20. Subject to the express requirements of the Hearing Regulations, procedure at the hearing of an application is expressly a matter for the licensing authority (regulation 21 of the Hearing Regulations). There is no similar provision in the Premises Regulations, which are generally prescriptive as to the pre-hearing procedure that must be followed by the applicant (who must comply with the appropriate provisions in Parts 2 and 4), and the licensing authority (which must comply with the appropriate provisions in Parts 4 and 5) (regulations 4 and 6).

21. Regulation 23(1) of the Premises Regulations repeats the requirement that an application for a new licence must be accompanied by a plan; and regulation 23(3) provides that a plan, when required, must show various specified topographical features, including:

- "(a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) if different from subparagraph (3)(b), the location of escape route from the premises;
- (d) ..."

Of course, in addition to the elements required by regulation 23(3), a plan that is lodged may show other matters which are not required by law.

22. Regulation 25 requires applications to be advertised in specific ways for 28 days.
23. "Relevant representations" are defined as representations made by an interested party or responsible authority, which are neither frivolous nor vexatious nor withdrawn, and which are in time and "are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives" (section 18(6) and (7) of the 2003 Act). That definition is important: representations to be relevant have to be about the effect of the licence on the promotion of the public interest licensing objectives set out in section 4, although evidence of the actual or potential impact of the licence on individuals may be relevant to the various strands of public interest involved. That is reflected in Appendix 2 to the Council's Statement of Licensing Policy which, under the heading "Relevant Information for Residents and Other Interested Parties", states:

"...

- o In accordance with [the definition of 'relevant representation'], you should demonstrate how your representation affects the promotion of the licensing objectives.
- o Provide an evidential base for the grounds of the representation; which could include written logs of problems, details of previous complaints, photographs or video evidence of the particular case."

24. The relevant period for representations in a case such as this is "28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant" (regulation 22 of the Premises Regulations).
25. Where no "relevant representations" are made, the licensing authority is bound to grant the application subject only to specified conditions derived from the operating schedule (section 18(2)). Where such representations are made, a decision making power arises in the licensing authority, because the requirement that the authority is bound to grant the application is subject not only to those same conditions but also to section 18(3) and (4), which provides that, where relevant representations are made:

"(3) ... the authority must –

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary; and
- (b) having regard to the representations, take such steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

(4) The steps are –

(a) to grant the licence subject to [such conditions mandated by the statutory provisions, and such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers necessary for the promotion of the licensing objectives];

(b) to exclude from the scope of the licence any licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application."

26. With regard to subsection (4)(a):

(i) by section 18(5), for these purposes, conditions are "modified" if any of them is "altered or omitted or any new condition is added"; and

(ii) by section 109 of the Police Reform and Social Responsibility Act 2011, "necessary" has now been replaced by "appropriate"; but again that change is not material to this appeal.

27. Whilst the provisions of section 18(3) and (4) are written in mandatory terms ("... the authority *must*..."), a discretion arises as the result of the words "take such steps ... *as it considers* necessary ..." (emphases added). However, in determining a licence application, the discretion that an authority has is limited in two ways: (i) that authority can only take one or more of the steps listed in section 18(4), and (ii) it is empowered (although also obliged) to take only such of those steps it "considers necessary for the promotion of the licensing objectives". The statutory provisions consequently both define and limit an authority's powers in determining an application for a new licence.

28. Once a licence has been granted, if it is proposed to change the relevant business or premises such that the carrying out of licensable activities will fall outside the licence which has been granted, then the licence holder can change the licence in one of three ways.

29. First, if it is proposed to extend the period for which the licence has effect or to vary substantially the premises to which it relates, then a new application under section 17 has to be made (section 36(6), and paragraph 8.73 of the section 182 Guidance). That requires, not only advertisement and a period for the making of relevant representations to be made, but also the licensing authority to reconsider and review the entire licence afresh.

30. Second, at the other end of the scale, if the proposal is of a very limited nature, which is incapable of having an adverse impact on the promotion of any of the licensing objectives, then a simplified procedure involving restricted publicity can be adopted (sections 41A-41D, introduced by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 (SI 2009 No 1772)). Paragraphs 8.59 and 8.60 of the section 182 Guidance provide:

"8.59. Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by... affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits....

8.60. Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of a premises) which in themselves may not be significant, but which cumulatively may impact on the licensing objectives. This emphasises the importance of having an up to date copy of the premises plan available."

31. It is not suggested by any party that the changes proposed in this case, to which I shall come shortly, warranted a new section 17 application for a new licence, or could properly have been the subject of the minor variation procedure. It is common ground that it was appropriate for those proposed changes to be the subject of the third procedure, namely an application for a variation of the licence under

section 34.

32. The procedure for an application under section 34 mirrors the procedure for a new application under section 17.
33. The Secretary of State has to make regulations for the due advertisement of the application (section 34(2)); and, by regulations 25 and 26 of the Premises Regulations, she has provided that the advertisement of such application must be the same as for an application under section 17 for a new licence.
34. Any premises licence has to be accompanied by a plan; but that does not mean that a plan always has to accompany an application to vary. Section 34(5) and regulations 27 and 27A of the Premises Regulations refer, expressly or implicitly, to accompaniment by a plan *where appropriate*; and regulation 23(1) only requires a plan to accompany an application for a new licence under section 17. For example, if an application to vary is made merely to extend hours for the same licensed activities without any change to the premises themselves, a plan would be unnecessary in practice and is not required by the scheme. However, it was properly common ground that where, as here, there is an application for a variation including significant changes to the internal layout of the premises (including elements required to be on a plan by regulation 23(3)), a plan complying with regulation 23(3) would be essential to the application.
35. Section 35(2)-(4) of the 2003 Act, reflecting to an extent section 18(2)-(4) in respect of a section 17 application for a new licence, provides that, where no relevant representations are received within the relevant period, then the licensing authority must grant the variation; but, where such representations are received, then they trigger a decision making process. The authority must hold a hearing and must, having regard to the representations, take such steps from those listed in section 35(4), if any, as it considers necessary for the promotion of the licensing objectives. Sub-section (4) states that:

"(4) The steps are –

(a) to modify the conditions of the licence;

(b) to reject whole or part of the application

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added."

36. Again, the licensing authority has a discretion in its decision making here; but, as with section 18(4) for an application for a new licence, where there are relevant representations in respect of an application to vary, it is limited: the authority can only respond to the application in one or more of the ways set out in section 35(4), and it can only take such steps "as it considers necessary for the promotion of the licensed objectives." Again, that requires an evaluation of what is necessary for the promotion of those objectives.
37. Therefore, as with a section 17 application, it can be seen that it is the making of relevant representations in respect of an application to vary that triggers a process of decision making by the authority, in the form of a hearing and decision to take such steps as are allowed and required by section 35(3) and (4). Where no representations are received within the relevant period, the applicant is entitled to the variation he seeks: no decision making process is triggered at all (Corporation of the Hall of Arts and Sciences v The Albert Court Residents' Association [2011] EWCA Civ 430, "Corporation of the Hall of Arts and Sciences"). It was suggested, obiter, in Corporation of the Hall of Arts and Sciences that an authority has no power to take into account late representations even where the decision making process may have been triggered by other, in-time representations (see, e.g., [41]); and it seems to me that that follows from the wording of section 35(3), which focuses exclusively on relevant representations which are defined in terms of being in-time. However, it was common ground before me – and, in my view, properly so – that, if someone has made relevant representations, then he may later amplify them.
38. There is one final procedure that should be mentioned. Under section 51, where a premises licence is in effect, a responsible authority or interested party may apply to the licensing authority for a review of the licence. The onus of establishing grounds for review falls upon the person initiating the application – including establishing that the ground is relevant to one or more of the licensing objectives (section

51(4)(a)) – but, otherwise, the procedure again reflects that for a new licence. In particular, any such application has to be the subject of advertisement (as well as notice to the licence holder), and there is a period in which representations may be made. There must be a hearing to consider the application and any relevant representations, which are again defined by reference to relevance to the licensing objectives (section 52(7)). In response to an application, the authority again must take such steps that are listed as it considers necessary for the promotion of the licensing objectives, those steps being, in this context:

- "(a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence."

39. Such an application would be appropriate where a licence holder performs licensable activities, within the scope and in accordance with the terms and conditions of his licence, but nevertheless those activities impact adversely on local residents, by causing unanticipated disorder or a public nuisance. It might be prompted by, e.g., a change in the manner in which the business is conducted (albeit within the scope and conditions of the licence), or merely busier trade.

The Facts

40. Canal Street is an area of restaurants and bars, as well as residential accommodation, in a central part of Manchester known as the Village.
41. Since September 2005, TGC Bars have operated a bar in premises at 28-30 Canal Street, under a premises licence granted by the Council. Those premises front onto Canal Street, and back onto Richmond Street, a parallel street. They comprise essentially two licensed floors: the ground floor including a mid-level mezzanine floor, and a basement.
42. The licence authorises three activities: the retail sale of alcohol, the provision of identified regulated entertainment and the provision of late night refreshment. The licence as initially granted was subject to 94 conditions, including the following in Annex 2:

Condition 31: "The licensed premises shall be provided with an adequate number of exits clearly indicated and so placed and maintained so as to readily afford the audience ample means of safe egress."

Condition 33: "Emergency doors must not be fitted with any securing device other than an approved type of panic bolt fitting...."

Condition 34: "Doors not in normal use, which are regarded as emergency exits, should be fitted with an alarm which is activated when they are opened. The alarm should be inaudible in public areas and should sound in an area permanently manned by management/staff whilst the premises are occupied...."

Condition 60: "Alterations or additions, either permanent or temporary, to the structure, lighting, heating or other installations or to the approved seating gangways or any other arrangements in the premises must not be made except with the prior approval of the City Council."

Condition 71: "Occupancy: Basement 240 persons, Mid Level 120 persons, Ground Level 260 persons, Total 620 persons."

Condition 72: "The windows and external doors on the Canal Street façade to be kept closed after 23.00 hours except for access and egress."

43. The licence had a plan of each floor attached to it, showing the matters required by regulation 23(3), and more. It showed five sets of external doors on the Canal Street façade ground floor, two (each with a lobby inside) marked, "Entrance"; and one, at the south east end of the building, giving access to the basement only via a doorway onto Canal Street ("the V2 doorway") and a set of stairs. The V2 doorway is adjacent to the door to the residential apartments on the upper floors of 10 Canal Street (the first floor, ground floor and basement of those premises being another licensed bar called "Crunch", owned and managed at the relevant time and now by the Appellant, which has an entrance just a few yards further up Canal Street). At the bottom of those stairs from the V2 doorway, the basement plan attached to the licence for the Via premises shows double doors marked "FD" into a bar area with dance floor.
44. The extent to which the V2 doorway had been used prior to the application to vary is contentious. However, it was common ground before the Deputy District Judge that it had not been used as the principal entrance and exit to the premises, and use of the doorway had not been required to cease as a result of being a breach of licence. For the purposes of the preliminary ruling, the parties agreed that it was not necessary for the judge to make a finding about the extent of the use that had been made of that doorway (Case Stated, paragraph 13) – and he did not make any such finding.
45. On those licence plans, there are a number of doors shown from the rear of the building onto Richmond Street; notably one set, again to the east end of the building, giving access to a second set of stairs down to the basement ("the Richmond Street doorway"). The external doors to the Richmond Street doorway are again marked on the plan, "FD". The evidence was, and the Deputy District Judge found (Case Stated, paragraph 10), that at all material times that doorway was in fact only used by staff and as an emergency escape.
46. In addition, the plans showed that there were several sets of internal stairs joining the ground floor and basement.
47. On 9 August 2011, TGC Bars made an application to the Council, under section 34, to vary their licence. The proposed variation had a number of elements, comprising in effect as follows (Case Stated, paragraph 14):

" ...

- o An extension of hours [for both sale of alcohol and provision of entertainment by one hour per day, ending one hour later each day].
- o Internal works to the ground floor premises.
- o The creation of two separate venues (Via – ground floor; Club Polari – basement), by the construction of internal walls, which had the effect of providing new toilet accommodation for Via at basement level. Club Polari would have its own completely separate toilet accommodation.
- o The provision of a wholly new and independent means of access to Club Polari for members of the public/club patrons by way of a public entrance doorway on Richmond Street (necessary because the previously utilised access from Via would no longer be possible with the new layout)."

The "previously utilised access from Via" is, of course, not a reference to the V2 doorway and stairs; but to the internal access from the ground floor.

48. The application was based upon a completed prescribed form, schedule of alterations and plans. The plans showed considerable changes to the internal walls and general layout of each floor (which made a plan a vital component of the application: see paragraph 34 above); but no change to the structure or layout of either the staircase at the north east corner of the building to the Richmond Street doorway (where the legend "FD" still appeared on the external doors), or the staircase at the south east corner onto Canal Street via the V2 doorway (where the doors at the foot of the stairs were also still marked "FD"). However, the schedule made clear that the alterations would include:

"... a full refurbishment of the rear staircase (currently used for staff and as an emergency escape) to provide improved and independent public access to this basement area from the rear of the building."

49. The application was duly advertised, and a number of representations were received by the Council in respect of the proposed extension of hours and the public access from Richmond Street. None objected to the division of the premises into two separate public venues, *per se*.
50. The Council's Environmental Health Department opposed both the proposed increase in hours and the proposed public use of the Richmond Street doorway on grounds of public nuisance. In respect of the latter, they said that that door was likely to lead to issues of public nuisance because Richmond Street is very narrow and bordered by high sided buildings, so any noise created by customers using that side of the building would likely be exaggerated by the corridor effect of the buildings which could lead to noise nuisance for the occupiers of the apartments that back onto Richmond Street. Those apartments include some in 10 Canal Street. No representations were received from any other responsible authority.
51. With regard to interested parties, the occupants of Flat 8, 10 Canal Street (Mr & Mrs Seymour) objected to the public use of the Richmond Street doorway on similar grounds, asking for permission for that new public entrance to be refused. Mr Taylor (who lives in Flat 1), the occupant of Flat 3 (Mr Welford) and another local resident living in a different block, all objected to the extension of hours. All of those representations were received by the Council before the close of statutory period for representations, on 7 September 2011.
52. On 12 September, solicitors for TCG Bars responded to those representations by writing to the Council as follows:

"The application is made up of three parts –

1. To carry out some internal alterations.
2. To create a new entrance on Richmond Street.
3. To extend the operation hours at the premises for alcohol and entertainment.

We have received representations from some residents and from the Environmental Health [Department] which our client has considered fully.

We are instructed, therefore, to amend the application in the light of the representations as follows.

1. We withdraw the part of the application to extend the hours for licensable activities which will remain as existing.
2. We attach amended layout plans which remove the application for the new entrance on Richmond Street.

The application to carry out other internal works which have not received any representation remains as per the amended plans.

We have copied in all authorities and the residents with email addresses and would ask them to confirm as soon as possible that the representations are now withdrawn as they have no relevance to the application so that the application can be granted by delegated powers."

It is be noted that the letter purported to "amend" the application to vary.

53. The "amended plans", dated 12 September 2011, were headed "Revision A – Main entrance to basement bar now positioned to front elevation". They showed most of the external doors at the back of the building (including the Richmond Street doorway) marked, "Escape"; and the V2 doorway

marked, "Entrance to Basement Bar". However, there were no differences in the structure or layout from the plan used for the original application. The doors in the basement at the foot of the V2 doorway stairs, and the external doors of the Richmond Street doorway, were both still marked "FD".

54. The new proposal came to Mr Taylor's immediate notice, and he discussed it with three other residents of 10 Canal Street on the evening of 12 September, before writing to TGC Bars' solicitors, with a copy to the Council, the following day:

"Looking at your revised plans. On your ground floor plan there is a new second entrance planned for named "Entrance to Basement Bar". This entrance is new on this plan which is currently a fire escape for the premises. This new proposed Entrance is directly next to the entrance door way to the 10 Canal Street flats. This is of great concern as Via already creates more than an acceptable amount of noise and I believe that this entrance will create further noise and disturbance.

My objection has been based around noise...

... I believe most if not all premises in the area now include operating conditions in their licences to assist with the management of noise and disturbance including having sound limiters, closing doors and windows when regulated entertainments are taking place, and the use and training of dispersal aids and policies with staff.

If the applicant can provide some conditions in their licence for this, I believe I would be happy to agree the application."

55. Mrs Seymour, having first withdrawn her representation, reinstated it on 7 October, having been contacted by Mr Taylor who pointed out the intention to use the V2 doorway as the sole means of public access to the basement. Mr Welford, the same day (7 October) also objected to the revision, on that same basis. The Environmental Health Department appears to have withdrawn its objection on the basis that the hours were not to be extended and Richmond Street would not be used for public access.
56. The hearing before the Council's Licensing Sub-Committee was held that day, 7 October 2011. Mr Taylor was the only interested party to attend, and he pressed for a number of conditions. In the event, the Sub-Committee granted the application, but included two further conditions on the licence, as follows:

1. Exit from the premises onto Richmond Street is to be used as a fire exit only.
2. A barrier to ensure queue forms in front of Via is to be operational from 20.00 daily. The barriers to be removed at the same time as the barriers which define the smoking area.

The second additional condition reflects paragraph CD1 of the Council's Statement of Licensing Policy, which requires the effective management of queues to prevent any nuisance or disorderly behaviour: "... [L]icensees are expected to demonstrate how they will manage queues to the premises."

57. That decision was formally notified to Mr Taylor on 20 October 2011. On 24 October, he lodged an appeal with the Magistrates' Court, under section 181 of the 2003 Act. It was in the context of that appeal that the Deputy District Judge made his ruling in respect of the preliminary issue, which has in turn been appealed to this court.
58. To complete the chronology, without prejudice to this appeal, the Council, TGC Bars and the interested parties who had made representations (notably, Mr Taylor) have now agreed that further conditions should be imposed; the Council have imposed those further conditions; and the premises have been operating as two discrete bar venues for some months on the basis of those conditions. No application for any review of the licence has been made under section 51, and there is no evidence of any difficulties in practice occurring as a result of the business operating under the licence with those conditions. Mr Cooper's apparently unchallenged evidence (paragraph 3 of the undated and unsigned statement used before the Deputy District Judge) was to the effect that, since the opening of the discrete basement bar in November 2011, there have been no issues with the Council's Environmental Health Department, the premises have been trading well, and he has maintained good relations with

neighbours including those who live in 10 Canal Street.

The Parties' Contentions

59. Mr Phillips for the Appellant Mr Taylor stressed that the 2003 Act, Regulations and Guidance do not on their face allow for *any* change to an application to vary a licence. Whilst he was prepared to accept that *de minimis* changes to an application might be made, he submitted that no amendment could be made that might reasonably be considered capable of having an adverse impact on the promotion of the licensing objectives. Where such a change is contemplated, an applicant is bound to start again by resubmitting the application, with the consequent new obligations for advertisement and new rights for responsible authorities and interested parties to make representations. Such changes, he submitted, should not generally arise when an applicant has engaged in pre-application consultation with responsible authorities and interested parties, as encouraged by paragraph PN3 of the Council's Statement of Licensing Policy. However, to allow amendments greater than that after the application had been made and advertised would fundamentally undermine the regulatory scheme's provisions for representations; encourage the undesirable practice of applicants lodging applications in a form designed to attract a lesser degree of objection, with the intention of amending subsequently and without notice to those who might be detrimentally affected; and be "transparently at odds" with local residents' right to private life under Article 8 of the European Convention on Human Rights.
60. Applying those principles to this case, Mr Phillips submitted that the 12 September amendment, with its change of route for public access to the basement floor, was clearly at least capable of having an effect on the licensing objectives, notably the prevention of public nuisance. By advertising the initial proposal to create a discrete basement venue with a new means of access on Richmond Street and then, after the expiry of the time for making representations and without public notice, amending the location of that access to the V2 door onto Canal Street, responsible authorities and interested parties were effectively deprived of the opportunity to make representations in relation to potential effects the revised scheme might have upon the promotion of the licensed objectives. They would not necessarily have become aware of the new means of access at all; but, even if they did, they could not have become aware of them until, at the earliest, 12 September 2011, when the revision was put forward. By that date, they would have been debarred from making any representations against the revised scheme, as the time limit for representations is strictly construed and had expired.
61. In the circumstances of this case, the legislative scheme required responsible authorities and interested parties to be given an opportunity to make representations in respect of that new proposal. As they were denied that opportunity, the Sub-Committee acted unlawfully in proceeding on the basis of the amended application.
62. Miss Clover for the Council submitted that, under the premises licence, the licence holder had always been able lawfully to use the V2 doorway for public access to the premises. On 12 September 2011, TGC Bars abandoned their application for extended hours and the refurbishment of the Richmond Street stairway and entrance to enable them to be used for public access to the basement. The application was thereafter restricted to the internal structural and layout changes, which did not include any changes to the structure of the V2 doorway and stairs, nor any changes to which any relevant representations had been made. The mere increase in intensity of use of that doorway for public access that was likely as a result of the proposed change did not require any formal variation to the licence.
63. The Sub-Committee was therefore able, and indeed right, to deal with the application solely on the basis of that limited remaining proposed variation in structure and layout. If, in the view of interested parties such as local residents, the change of business operation in fact impacted upon the licensing objectives, then the appropriate remedy lay in an application for review under section 51 (see paragraphs 38-39 above).

Discussion

64. This appeal concerns the principles and structure of the licensing scheme implemented by the 2003 Act.
65. As I have described (paragraph 12 above), regulation of the retail sale of alcohol and prescribed entertainment is effected by imposing a criminal sanction upon those who carry out such activities other than in accordance with a licence granted by the relevant local authority. This means that a licence holder is entitled to sell alcohol and provide entertainment in any manner he wishes, so long as

the licence does not prohibit that manner of provision in some way, because (e.g.) it falls entirely outside the scope of the licence or it breaches one of the licence conditions.

66. If those activities are carried out lawfully, within the scope of the premises licence and in accordance with the licence conditions, but the manner in which they are carried out adversely impacts on one of the licensing objectives (e.g. by in fact causing disorder or a public nuisance), then the remedy of any person affected (whether a responsible authority or an interested party) is to apply for a review of the licence under section 51, to which the licence holder, and responsible authorities and other interested parties can respond.
67. Where the holder of a licence intends to carry out activities in a way that he considers may not be in accordance with his licence, then he is able to apply for a variation of the licence to extend the scope of the licence to cover that manner of carrying out those activities or remove a condition in respect of which he considers he would be in breach, using one of the three procedures set out above. If he does not, and the activities do fall outside the scope of the licence or breach the licence conditions, he is liable to prosecution. So the risk of not applying for a variation is his. That is no doubt why the terms of section 34(1) do not require an application for variation to be made in any circumstances, those terms being merely permissive: "The holder of a premises licence *may* apply to the relevant licensing authority for variation of the licence" (emphasis added).
68. On an application to vary, the Premises Regulations provide detailed rules for both advertisement, and as to how, when and by whom representations can be made in respect of the application. Representations can only be made on the public interest grounds set out in section 4, and must be made within 28 days: although representations can be amplified once made, once the 28 day period has expired the authority has no power to receive representations from those who have not previously submitted any. If no representations at all are made on those grounds in that 28 day period, then the licence holder is entitled to his variation as of right. If representations are made on those grounds, then that triggers a process of decision making by the authority. The very purpose of the representations is, initially, to be that trigger.
69. Once the decision making process is triggered, it is driven by the terms of the scheme, the discretion given to the authority by the scheme, and the requirement that the authority acts fairly.
70. The scheme provides no mechanism for amending an application once made, and neither the Act nor the regulations, nor the Secretary of State's Guidance nor the Council's own Statement of Licensing Policy, makes any mention of the possibility of amendment. Clearly, a power to amend that would defeat or undermine the object of the procedural provisions relating to advertisement and right of responsible authorities and interested parties to make representations could not conceivably be implied; and neither Mr Phillips nor Miss Clover suggested otherwise.
71. However, the scheme has no express power enabling an applicant to amend an application to vary; and, in my judgment, properly construed, the regulatory scheme does not as such allow or envisage any amendment to an application to vary once it has been made.
72. It does not need to do so, because of the nature of the decision making process with which the authority is involved. As stressed in the illuminative judgment of Toulson LJ in Hope and Glory Public House (see paragraph 9 above), in respect of licensing, a licensing authority exercises an administrative function given to it by Parliament. Whilst the authority must no doubt take into account the rights of those people who live and work in the vicinity, those interested parties can only make representations as to the "likely effect of grant of the application on the promotion of the licensing objectives", i.e. on the basis that the *public* interest will be adversely affected. It is the potential impact upon that *public* interest, and that alone, which triggers any decision making process at all. In its absence, the licence holder has a right to the variation it seeks.
73. Once triggered, it requires the making of an evaluative judgment, involving (as Toulson LJ said in Hope and Glory Public House) the weighing of a variety of competing public policy considerations, such as the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, and including the impact generally on the lives of those who live and work in the vicinity. It inherently involves an evaluation of what is to be regarded as reasonably acceptable in the particular location, and of what is necessary and proportionate to the promotion of the statutory licensing objectives in terms of scope of the licence and conditions in a local context.

74. The scheme is based on the premise that the relevant local authority is uniquely equipped and well-placed to make such judgments. In such areas of quintessential policy, the State generally has a wide margin of appreciation, or, in the more domestic terms used by the Divisional Court in Meade v Brighton Corporation [1968] 67 LGR 289 (a case concerning a gaming machine permit under the Betting, Gaming and Lotteries Act 1963): "The discretion in the local authority is about as wide as it could be". The court will be cautious before interfering with the exercise of such a discretion.
75. However, wide as a licensing authority's discretion might be in general, it is limited by the specific terms of the scheme: in the context of premises licence applications under the 2003 Act – whether for new licences under section 17, or for variations under section 34, or for review under section 51 – a licensing authority does not simply have a open discretion, even when its decision making function is brought into play.
76. The principle restrictions on an authority's discretion are, for the purposes of this appeal, two-fold.
77. First, an application to vary never triggers a general review of the licence: the scope of the review of the licence is limited. "Relevant representations", which trigger the review, must be (i) confined to the subject matter of the variation (paragraph 9.4 of the section 182 Guidance), and (ii) "about the likely effect of the grant of the application on the promotion of the licensing objectives". That focus reflects the fact that, where those representations are made, they trigger an enquiry by the authority into the effect the proposed variation may have upon the promotion of the licensing objectives (and, to that extent, I respectfully agree with the authors of *Alcohol and Entertainment Licensing Law* by Manchester, Poppleston & Allen (2nd Edition) (2008), at paragraph 6.9.4, to that effect). An application for a new licence or for a review is similarly limited, although the precise statutory restrictions are different, tailored to the nature of the particular application.
78. Second, in the light of the conclusions of that enquiry, the authority must determine the application to vary. However, the scheme again does not give the authority an open discretion to do whatever it likes. Indeed, the provisions are prescriptive. Section 32(5) requires the authority to consider whether, for the promotion of the licensing objectives, it is necessary to reject the application (in whole or in part) and/or to modify the conditions of the licence to accommodate the variation in the context of the licence as a whole. There is a discretion here, insofar as the authority only has to act if it considers such rejection or modification is necessary: but, if and insofar as it does consider that, then it has both a power and an obligation to reject the application or modify the licence conditions accordingly. The authority can do no more, and no less. Again, an application for a new licence or for a review has similar restrictions on the authority's powers.
79. These provisions therefore effectively define and limit the extent of the authority's powers as to how a licensing authority may respond an application to vary a licence. Its field of potential action is limited by the scope of the extant licence and the application to vary that licence; and it is limited to rejecting the application to vary (in whole or in part) and/or to modifying the conditions of the licence to accommodate the variation in the context of the licence as a whole.
80. It is here that an applicant's changing wishes or intentions may come into play. Given the power of a licensing authority to reject part of an application for variation or modify the licence conditions, it is open to an applicant (e.g. in the face of relevant representations received) to indicate to both licensing authority and responsible authorities/interested parties who have made relevant representations that (i) he does not wish to pursue part of an application and/or (ii) he is willing to agree to a modification to the licence conditions to cater for the concerns expressed.
81. Whilst that may be expressed, as in this case, as an "amendment" to the application to vary, in my view it does not amount to a formal amendment to his application; but the licensing authority is bound to take those views of the licensee into account in exercising its discretion as to appropriate steps it might take in deciding the application in its original form. An authority would not usually consider it necessary to consider further any part of the application which the applicant no longer wishes to pursue – although, on particular facts, it may do so if, for example, the part abandoned cannot be properly be severed from other aspects of the licence. The authority would also wish to consider, with the responsible authorities/interested parties, whether the conditions to which the applicant is prepared to submit address the concerns raised in their relevant representations as to the potential impact of the proposed variation on the promotion of the licensed objectives.
82. Given the administrative nature of the authority's function, it is perfectly appropriate for the authority thus to liaise with the applicant licensee and the responsible authorities/interested parties to see

whether a compromise can be reached. Where, after relevant representations are lodged, discussions between the licensing authority, the applicant and responsible authorities/interested parties who have made relevant representations lead to an agreement within the scope of the extant licence and original application to vary as to the parts of the application to be granted and the conditions upon which that grant will be made, then it is open to the authority to make a grant on those conditions; so long as it considers that the rejection of the parts agreed to be rejected and modification of the conditions agreed to be modified are necessary for the promotion of the licensing objectives. In those circumstances, the responsible authorities/interested parties might withdraw their representations (regulation 10 of the Hearing Regulations), or the parties may agree that a hearing is unnecessary and the authority may dispense with a hearing if it agrees that it is unnecessary (section 35(3)(a), and regulation 9 of the Hearing Regulations)

83. For the reasons already explored, given the decision making power granted to it by Parliament, the administrative nature of that power and the unique position an authority is in to make the relevant judgments, subject to any restrictions expressly imposed by the terms of the statutory scheme itself, the discretion of a licensing authority is necessarily wide, and the exercise of such a discretion with which this court should be cautious of interfering. Whilst the pre-hearing procedure is detailed and prescriptive, and does not have the equivalent of regulation 21 of the Hearing Regulations (which expressly gives the authority power over its own procedure), that discretion applies to the procedure the licensing committee adopts pre-hearing, subject to the procedure adopted (i) complying with the procedural requirements of the scheme, and (ii) being "fair" and directed to promoting the licensing objectives in section 4. That was illustrated in Corporation of the Hall of Arts and Sciences, in which, in addition to the mandated advertisement of the application to vary, the authority had a practice of notifying directly businesses and residents in the immediate vicinity of the relevant premises. "Fair" here has to be seen in the context that the authority is performing an administrative function: it is not acting in a judicial or quasi-judicial capacity (see Hope and Glory Public House at [41] per Toulson LJ). If the licensing committee stray outside that wide discretion, and adopt a procedure which is irrational or otherwise unlawful, then the resulting decision may be open to challenge by way of appeal or judicial review (see Hope and Glory Public House at [51]-[52] per Toulson LJ; and Corporation of the Hall of Arts and Sciences at [39] per Stanley Burnton LJ).
84. In conclusion, it is to that extent, but only to that extent, that an applicant may notify "amendments" to the parts of the application he wishes to pursue, and the conditions he is prepared to accept to enable the variation to be granted. However, the licensing authority in the form of the licensing committee or sub-committee must eventually itself come to a judgment as to whether the promotion of the licensing objectives requires the rejection of the whole or part of the original application as made, and, insofar as it does not, whether it requires any modification to the licence conditions. In making that judgment, it cannot however extend the scope of the licence.
85. If the variation is granted in terms that are unacceptable to an interested party, then there are a number of routes of challenge. First, of course, as in this case, an appeal can be made to the Magistrates Court. Second, if the procedure adopted by the authority is irrational or otherwise unlawful, then the resulting decision would be open to challenge by way of judicial review (see paragraph 83 above). Third, if the variation results in unexpected adverse effects on the licensing objectives, then an interested party can seek a review of the licence under section 51.
86. Let me deal finally with two specific submissions made by Mr Phillips.
87. First, he submitted that, on an application to vary, no change to the licence could be made that might reasonably be considered capable of having an adverse impact on the promotion of the licensing objectives, unless that change was made clear in the initial application as advertised; and, where such a change to an application to vary is contemplated, an applicant is bound to start again by resubmitting the application, with the consequent new obligations for advertisement and new rights for responsible authorities and interested parties to make representations.
88. I do not agree with that proposition – or, at least, the full extent of it – which, with respect, does not seem to me to be in line with the nature of the scheme when looked at as a whole.
89. The proposition might have more force if the function of the decision maker were judicial, rather than administrative. However, relevant representations trigger an administrative investigation by the licensing authority into the effect the proposed changes will make to the promotion of the licensing objectives: that decision making process having been triggered, it is then for the authority to weigh the various strands of public interest and determine whether the promotion of those objectives requires the

rejection of any part of the application or modification of the licence conditions.

90. It is true that the investigation is restricted to the matters raised in the representations, but the important point is that the action the authority can take is restricted by the scheme to rejecting the application in whole or part, or modifying the licence conditions.
91. In respect of the former, insofar as the authority rejects the application to vary, that will have the effect of leaving the licence, to that extent, unaltered: the authority cannot extend the scope of the licence beyond that of the extant licence and the variation proposed.
92. With regard to modification of the licence conditions, the statutory scheme gives the authority full scope to add, subtract or vary any conditions to accommodate the variation in the context of the licence as a whole. The scheme requires the authority to modify the conditions if and to the extent that it considers modifications necessary to promote the licensing objectives. "Promoting the licensing objectives", as I have described, requires the balancing of various strands of public interest; and, in performing that balance, it is possible, of not inevitable, that one of the objectives may be demoted in order to benefit another. Where that is so, the scheme simply does not require further consultation of local residents and other interested parties in the form of re-advertisement with a fresh opportunity to make new relevant representations. It does not do so because:
- i) The authority is already charged with the task of balancing the strands of public interest involved, on the basis of such evidence as it has collected. In many cases, it will consider that it is in a position to make that decision without formally consulting interested parties and local residents again. If it is not – e.g. if it considers that the procedure will be unfair to local residents without such further consultation – then it is open to the authority to require the applicant to start again with a fresh application. However, absent a proposed change extending the scope of the licence, that would be an exceptional case.
- ii) If the authority were required to start the process over again, simply because the exercise of its statutory powers might adversely affect one strand of the public interest involved, that would seriously compromise the dialogue between the authority, applicant and responsible authorities/interested parties who have made representations, which is encouraged as an inherent part of the scheme.
93. Responsible authorities and interested parties can take considerable comfort from the fact that the authority cannot extend the scope of the licence beyond that of the extant licence and variation proposed. Furthermore, where such authorities and parties have made relevant representations, they are able to play a full part in both the pre-hearing dialogue (designed to come to a result that is satisfactory to the applicant and responsible authorities/interested parties) and the hearing itself. If they are dissatisfied with the result of the hearing in practice, they are able to appeal or challenge the result by way of judicial review or seek a review of the licence. If the manner in which the licensed business is operated causes (e.g.) a private nuisance, then they can bring a private law claim. But, in licensing terms, their rights and interests are not paramount: they are just one factor which the authority must take into account, when determining an application to vary. For the reasons I have given, in exercising a licensing function, the focus is on the public interest.
94. For those reasons, I do not accept Mr Phillips' proposition.
95. Nor do I find Mr Phillips' reliance on Article 8 effective. Article 8 concerns an individual's right to a private life. For the reasons I have just given, there are considerable safeguards for that right in the scheme, and in the private law. There is no arguable breach of Article 8 simply because the scheme does not provide for re-advertisement of any proposed change of licence conditions which might arguably affect either the licensing objectives or the private life of a specific individual. Far from being "transparently at odds" with local residents' right to private life under Article 8, I do not consider that Article 8 has any role to play in the issue in this appeal.
96. It seems to me that the principles that I have outlined are not only clear from the terms of the regulatory scheme, but are also practical in their application. Whilst I have been involved in an exercise in the proper construction of the terms of the statutory scheme, that comes as some comfort – particularly as it must have been Parliament's intention to impose a regulatory scheme that is workable. On the evidence before me, they also appear to be the principles which, in practice, licensing authorities have in substance generally applied since the advent of the new scheme in 2005. That may explain why the issue in this appeal has not until now ever come before the courts.

Application of the Principles to this Appeal

97. I now turn to apply those principles to the appeal before me.
98. The Appellant's complaint is that the initial application to vary the licence did not indicate that the V2 doorway would be used as the only means of public access to and egress from the new self-contained basement bar. In that application, the proposal was to refurbish the Richmond Street doorway and stairway to or from the basement, and use that to get the public to and from the basement. That change to the application was not the subject of advertisement, and consequently the Appellant and other local residents were denied the opportunity to make representations in respect of the use of the V2 doorway for that purpose. That amendment, it was submitted, required the licence holder applicant to start the variation process again – at least so far as advertisement and period for representations are concerned. It was that failure which rendered the decision of the authority unlawful.
99. For the reasons I have given above, the applicant could not formally amend his application, once it had been submitted; but the Council, in determining whether it was appropriate to reject the whole or part of the application, or modify the licence conditions to accommodate the proposal, was entitled to take into account the applicant's changed wishes and intentions. In the face of opposition to both the extension of hours and the refurbishment of the Richmond Street doorway and stairway to enable public access to the basement bar by that route, the Council was entitled to conclude that they could and should properly reject those parts of the application.
100. The real issue, of course, is whether the Council was entitled to grant the variation, on the basis of the original application, with the V2 doorway being the sole public means of access to the newly-discrete basement bar, without requiring the applicant to submit a new application or at least requiring the new proposal to be re-advertised with a fresh period for responsible authorities and interested parties to lodge relevant representations.
101. As I have indicated, the extent to which the V2 doorway was in fact used for public access to the premises prior to the application to vary is controversial. As I understand it, there was some evidence that, for a short period, the V2 doorway had been used for public access to the basement; but the evidence suggests that the doorway was not used a great deal, and Mr Cooper (the premises licence's designated premises supervisor: see paragraph 19 above) appears to confirm that the V2 door was used as a fire door but not used as a (public) entrance, access to the basement being through the main doors of Via and internal stairs (paragraph 2 of an unsigned and undated statement used at the hearing before the Deputy District Judge).
102. However, as the parties properly conceded before the Deputy District Judge, in respect of the application to vary, what mattered was not the use to which the V2 doorway had actually been put, but the use of it that was lawful under the original licence. In my judgment, the licence as issued in 2005 undoubtedly allowed the V2 doorway to be used for public access to the premises.
103. Mr Phillips conceded before me that the 2005 licence enabled that doorway to be used for public access to the basement, in the sense that the licence did not limit the use to which that entrance/exit could be put and, therefore, if that doorway were used for public access to the basement, a prosecution under section 136 for breach would fail. He submitted that it would fail merely because of the high burden of proof required in criminal proceedings; but, in my view, there was clearly no restriction on the use of that entrance/exit to the premises in the 2005 licence.
104. I accept that, by virtue of regulation 23(3)(b) and (c) (paragraph 21 above), a licence plan should identify the location of points of access to and egress from the premises on the one hand, and, if different, identify discretely the location of escape routes from the premises; but the marking "FD" in the internal doors at the foot of the V2 stairs cannot indicate that the route from the basement to the V2 doorway was merely an escape route and no more. Many internal doors are marked on the plans with "FD" and, whatever that means (and, of course, it might stand for "Fire Door": see also paragraph 2 of Mr Cooper's statement), it does not appear to identify mere escape routes. Even on the final plan, from the face of which it is clear that the applicant proposed to use the V2 doorway and stairs as the only means of public access to the basement, the doors at the foot of the stairway are marked "FD".
105. In the 2005 licence, in my judgment, there were no restrictions on the use of doorways between the premises and the streets, front and back, either in the conditions or on the face of the plans that form part of the licence. In those circumstances, any of the doorways (including the V2 doorway and the Richmond Street doorway) could be used for public access to and egress from the premises. If the means of access through a particular door caused an adverse impact on the licensing objectives, it would have been open to either a responsible authority or an interested party to have made an

application for review under section 51.

106. Mr Phillips relied upon the well-known passage from the judgment of Scott-Baker LJ in Crawley Borough Council v Stuart Attenborough [2006] EWHC 1278 (Admin) at [6]-[7], to the effect that licence conditions must be enforceable, and consequently sufficiently clear for that purpose; but, in my judgment, the scope of the licence and conditions in this case, so far as the allowable use of the V2 entrance is concerned, were manifestly clear.
107. The ability of the licence holder lawfully to use the V2 doorway means of public access to and egress from the basement was not lost, even if the licence holder did not in fact use that doorway in that manner either very much or at all or to the extent that he may use it in the future. Nor, in my view, was it lost merely by the separation of the ground floor and basement bars into distinct units. That separation, of course, had an inevitable effect on how the business would operate. The final proposal, which involved the V2 doorway being used as the sole entrance/exit for the new discrete basement bar, inevitably changed the degree of use of the V2 doorway by (i) reducing the number of people who might use the V2 entrance/exit, from 620 (the total capacity of the premises) to 240 (the capacity of the basement alone), whilst (ii) meaning that all of those who used the basement bar would have to use the V2 entrance/exit. That was a change of business which resulted in a change of intensity of use of the doorway – in effect, reducing the possible maximum usage of that doorway whilst substantially increasing the likely use – but that did not require a variation to the licence at all.
108. That applied equally to the door into Richmond Street at the north east corner of the premises: there were no restrictions on the use of that doorway either, and, under the 2005 licence, the licence holder could have used that doorway for public access – although it may have been likely that, had they done so, there would have been an application for review by the Environmental Health Department, if not the occupiers of residential accommodation that abutted Richmond Street. However:
 - i) The application to vary included an application to change the structure and layout of the building to this extent, namely the "full refurbishment of the rear staircase... to provide improved and independent public access to this basement area from the rear of the building...". That appears, not from the plan – the plan was unaltered from that attached to the 2005 licence – but from the schedule of proposed alterations (see paragraph 48 above). Insofar as that involved a change to the structure or lay out of the premises, it may have required a variation to the licence (and/or approval under Condition 60 of the licence conditions: see paragraph 42 above).
 - ii) In any event, it was open to the applicant, in the light of opposition to the use of the Richmond Street doorway, to indicate that it would not use that doorway for the public, but would use the V2 doorway. No structural or layout changes were requested (or, as I understand it, required) for use of the V2 stairs and doorway for the purposes of access to the basement. The only change marked on the final plans, and the only change intended, was substantially greater use of that route for public access to the premises than had previously occurred. However, that was not required to be put into the plan, and that use already fell within the boundaries of the extant licence. Increased use of a means of egress and ingress in fact, where that use is already lawful in terms of the licence, does not require a variation of the licence.
109. In those circumstances, TCG Bars did not need a variation in their licence to enable them lawfully to use the V2 doorway for public access to the basement. After 12 September 2011, the only variation proposed by TCG Bars related to the internal structure and layout of the premises, in respect of which no representations were made and of which neither Mr Taylor nor any other person making relevant representations made any complaint.
110. However, the TCG Bars nevertheless had to satisfy the Council that queues would be managed effectively (paragraph CD1 of the Council's Statement of Licensing Policy: see paragraph 56 above). It was open to the Council, in the light of the likely future use in fact of the V2 doorway as a public entrance/exit to modify the conditions of the licence, by imposing an additional condition relating to queuing. It can properly be assumed that that condition was imposed because the Council considered it necessary for the promotion of the licensing objectives relating to the prevention of disorder and public nuisance.
111. For those reasons, in my judgment, the Council's Licensing Sub-Committee was lawfully entitled (i) to proceed with the application to vary the licence; (ii) to take into account the applicant's express wish not to proceed with parts of the application, namely the extension of hours and refurbishment of the Richmond Street entrance and stairway for use by the public; (iii) to determine, in accordance with

those wishes, to reject those parts of the application as not being necessary for the promotion of the licensing objectives; (iv) to determine that, if the remaining parts of the application were to proceed, a new condition relating to queuing outside the V2 entrance was necessary for the promotion of those objectives; and (v) to grant the variation on that basis. That is the substance of the Sub-Committee's decision in this application.

Conclusion

112. For those reasons, in my judgment, the judge was correct in ruling that it was lawful for the Council to proceed to determine the application to vary in accordance with section 35 as it did, even though the applicant had notified the change of scheme whereby the public access to and egress from the basement would be by way of the V2 doorway and not the Richmond Street doorway. The result was not outwith the scope of the existing licence and application to vary as seen together.
113. I would consequently answer the question posed by the Deputy District Judge in the affirmative, and I dismiss this appeal accordingly.

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URL: <http://www.bailii.org/ew/cases/EWHC/Admin/2012/3467.html>

Food

co
op

Core
+ Colleague
+ Induction
+ Welcome Pack

Name:

Welcome to your store

This pack will help you through your induction period with us.

There'll be activities, checklists and space for you to make notes and jot down ideas.

Don't worry, your Store Manager and Buddy will be with you every step of the way.

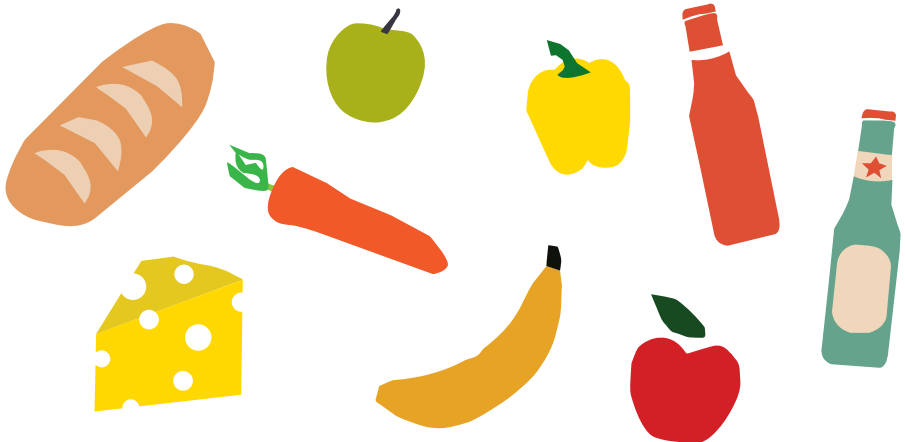
You'll learn most things in store but you will also be heading out for a day.

This is your pack to look after and keep. As the saying goes, the more you put into it, the more you will get out of it!



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Your core journey

Day 1

Let's get started!

Day 1 is all about getting you set up to be great in your role.

Your first day will be spent with your Store Manager or Buddy, finding your bearings in your store and learning all about our Co-op difference.

To ensure you're safe and we abide by the law, you may need to complete some additional modules. Don't worry though, your Store Manager or Buddy will take you through these.

Week 1

We're setting you up for success!

During your first week you will need to complete all of your core modules. These include things such as Age Matters and Shop floor basics. You'll do these either on e-learning or with the help of your Buddy.

You'll find a full list of what you need to complete in the 'Core modules' section of this pack.

Week 2 - 12

Become a specialist!

These areas are optional and will be based on your development and what your store needs.

If you have these departments in store and they are of interest to you, have a conversation with your Store Manager about getting trained on them.

They include departments such as Bakery, Delicatessen, Food Safety Level 2, Post Office, and Cash.

Week 2 - 4

Department Savvy!

We want you to know all of the basic departments in the store, so, during your first 4 weeks you'll be learning all about Electronic Point of Sale (EPOS), News and Mags and Checkouts.

Welcome to Co-op!

During this time you'll also need to attend an event called 'Welcome to Co-op' which is a really fun and informative day with other new colleagues from your area, to learn about our Co-op and how you can have a positive impact on our customers and your store.

Reviews

During your first 12 weeks with us your line manager will spend time with you at weeks 4, 8 and 12 to review your progress and support you during your induction period with us.

Finding your bearings



Welcome to our Co-op

What happens when down-to-earth, decent, hard-working people, who are free to use their best judgement, work for an organisation which carefully balances profits with ethics for the benefit of its members?

The answer is that you get magic. Co-op magic. Be part of it.

Welcome

You're starting work for one of the largest co-operative consumer groups in the world and we have a lot to be proud of. Over the next few weeks, you'll be introduced to our business and learn more about our history but for now, let's talk about the really important things, like finding your way around your store, our policies, and some of the great benefits you'll get by working with us.

One of the first things that will happen is that your Store Manager will link you up with a Buddy. Your Buddy will help you navigate the first few weeks and will show you the ropes. Don't be afraid to ask questions, it's important to us that you feel comfortable and happy at work which is what your Buddy is there for.

Don't forget to have a look at our website, which has lots of information about our policies, perks and people: colleagues.coop.co.uk/

You're going to meet your team and learn lots over the next few weeks.

Make some notes about the basics below to help you remember:

My Store Manager's name is:

My Team Manager's name is:

My Team Leader's name is:

My Buddy's name is:

My teams' names are:

If I am not able to come in I should call:

Pay day is:

My holiday entitlement is:

My membership number is:

*** It's really important that on day 1, you log on to MyHR and enter your bank details - if you don't do this, we won't know where to pay you.**

Our Co-op and you

Aside from a great business and fantastic people, there are plenty of other reasons to work with us.

Co-op Colleague Membership

Great rewards when you buy Co-op own brands. 5% for you, plus 1% for your local community.

Electrical

5% colleague discount on a huge range of electrical goods, plus Co-op membership rewards on selected items.

Food

Great food for less, with 10% discount on top of your 5% membership rewards.

Funeralcare

Exclusive colleague discounts on funeral arrangements and pre-paid funeral plans.

Insurance

Special colleague discounts of up to 25% on home, pet and motor insurance, plus savings on breakdown cover.

Legal Service

5% off Conveying, Will, Family, Personal Injury and Probate and Estate Administration.

Pensions

Helping you save for the retirement you want, with valuable contributions from the Co-op.

Plus much more, including:

- Child care vouchers
- Death in Service
- Retail and Leisure Discounts
- Rental Deposit Loans
- Credit Union



Simply scan the QR code above or go to:

coop.co.uk/benefits

To register, just have your employee number and national insurance number handy.

You can access the site from work or home, meaning you can take advantage of our offers at any time.

Useful Contacts

USDAW

The Co-op recognises the rights of employees to be members of trade unions and, as a long term supporter of the trade union movement, **actively encourages** membership by all employees. Co-op recognises **USDAW** as the appropriate trade union to represent colleagues and negotiates terms and conditions yearly.

Please visit the USDAW website at www.usdaw.org.uk or call 0800 030 8030 for more information.

Employee Assistance Programme

Offers a range of services such as counselling, information, signposting and support across a wide range of issues such as personal and work related concerns, legal and financial advice, health, and child and elder care.

The EAP service is **confidential**, available **24/7** and run by an **independent** provider.

Call **0800 069 8854**

For online support visit:
www.validium.com
Username: **Coop**
Password: **Group1844**

Bullying and Harassment

We do everything we can to make our Co-op a great place to work, where colleagues feel safe and comfortable to be themselves. Our Bullying and Harassment Policy is available to everyone on the intranet.

If you have any worries, you can contact the **Whistle Blowing** helpline on **0800 374 199**.

Or contact the Co-op Food **Bullying, Harassment and Discrimination** helpline on **0844 728 0165** or by email at h&bcomplaints@coop.co.uk

Your case will be handled sensitively and with integrity.

“Here at the Co-op we strive to create an environment that embraces individuality, celebrates the fact that everyone is different yet equal and where every colleague is treated with dignity and respect.

Our Co-op is very proud to attract such a diverse workforce. Creating a culture where colleagues can be authentic, honest, and true. Where individuals are encouraged to flourish, feel engaged and rewarded. We remain a reputable inclusive employer amongst our peers, recognising that variety is the spice of life’ and that self-expression and creativity are essential when enable colleagues to develop their full potential.”

Aspire

Women's Career Network

What do we do?

We offer:

- Regular communication with other, like-minded colleagues with similar aims.
- Facilitated and informal networking opportunities both across and outside of the Co-op.
- Access to a broad range of resources to enable you to plan and move towards progressing your career.
- ‘Lunch and crunch’ sessions that enable you to broaden your personal and professional development.
- Opportunities to engage with the network and contribute to it's future either through your Aspire Steering Team or contributing articles and ideas to the Aspire member magazine.

Aspire is an informal support system for Co-op women who wish to pro-actively develop themselves, build a network or advance their career with the Co-op.

We are a fully inclusive network and welcome male members who want to get involved. Aspire holds several events each month which include informal networking discussions, lunch and learn workshops and ‘roundtable’ sessions where senior women share their career journey.

Join us

If you want to become a member, or are interested about finding out more, email us at aspire@coop.co.uk or get in touch via Twitter @aspire_co_op

Respect

LGBT+ Network

What do we do?

Support

Going through a difficult time because of your sexuality or gender identity, or know someone who is? We're here for you.

Develop

We help colleagues get the most out of their careers through mentoring schemes, training and careers advice.

Inform

LGBT+ issues matter. We make sure that colleagues' voices are heard at the highest levels of our Co-op.

Socialise

Events give colleagues a chance to meet new people and learn more about LGBT+ issues, culture and history.

Respect is the Co-op's lesbian, gay, bisexual and transgender (LGBT+) network.

We have two simple aims: to make sure LGBT+ colleagues can be themselves at work and to promote LGBT+ equality throughout the Co-op and beyond.

We believe that creating a workplace where everyone can flourish is up to all of us; that's why everyone is welcome to join Respect, whether you identify as LGBT+ or not.

Join us

If you want to become a member, or are interested about finding out more, email us at respectLGBT@coop.co.uk or get in touch via Twitter @cooprespectLGBT

Policy and procedure

Here at the Co-op we are proud of presenting a professional image to our customers.

We'll provide you with a uniform in order to keep you looking smart, and any other appropriate protective clothing to protect our food products from sources of contamination. But, we don't want to be too strict; we respect individual differences and understand you may sometimes want to express yourself through how you look.

If you have long hair, false nails or nail extensions, be sensible - make sure they don't get in the way of you carrying out your job.

Keep your feet safe by wearing clean, dark, flat shoes that protect your toes.



To minimise any risk to health and safety, if you wear jewellery, tuck any loose items out of harm's way.

Piercings that might get caught or fall out shouldn't be worn.

Remember to wear your name badge so customers and colleagues know who you are.

We don't want to make our customers sick so hands and nails must be kept clean and tidy.

Other things you need to know

Make sure that your Manager or Buddy has gone through the following policies with you. You can also find all our policies on How Do I, or on the intranet under HR > People Policies. If you have any questions, don't be afraid to ask.

☐

Advanced rate of pay and when you'll be eligible

☐

How to book a holiday and the amount of notice you need to give

☐

The Day 1 Policy Information sheets

☐

How to clock in and out

☐

How to read and understand the rota

☐

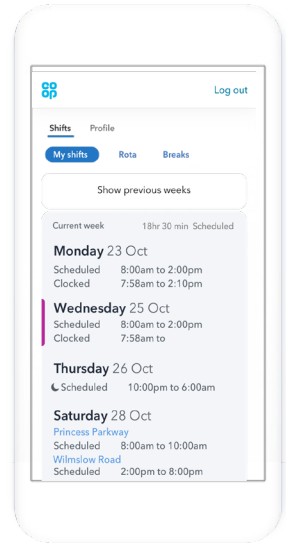
How to report sickness and that you've understood the Absence Policy

We know there may be times when you need to be off work due to health or other reasons. It's important that you read and understand the Absence Policy and follow the instructions.

You will not be paid for the first 3 days of any sickness absence.

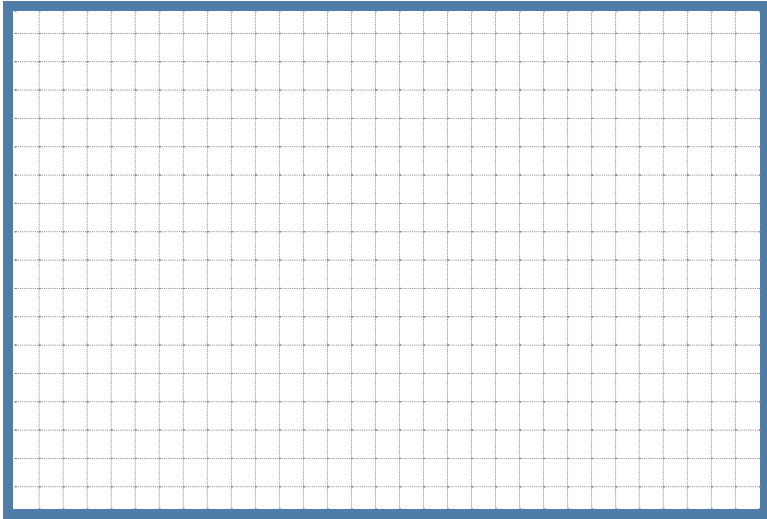
Here's what Shifts will show you:

- Make sure your mobile number is correct in the MyHR system so you can access it. If any of the information is incorrect, then speak to your manager. You can find more information on Shifts on How Do I.



Notes

Explore your store

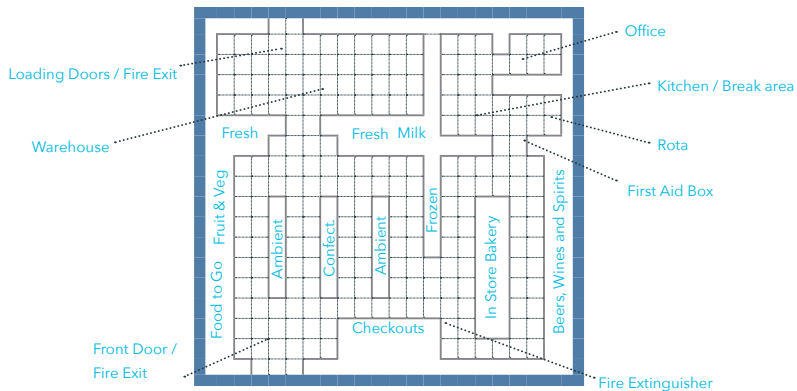


Now that you've had a tour and learnt a bit about your job, your first task is to find your way around.

Use the grid above to draw a sketch of your store, it doesn't have to be perfect but going around and having a look at what goes where will really help you find your feet. There's an example at the bottom of the page.

Here's a few ideas of things to show:

- First Aid Box
- Emergency Exits
- Warehouse
- Back Office / Kitchen
- Location of Rota
- Location of Fire Extinguishers
- Shop layout (include Ambient, Frozen, Confectionery, Fresh, Food to Go, Checkouts etc.)



More about us

Now's a great time to have a look around your store and learn a bit more about it. Have a go at answering these questions:

Our Food

Find an Irresistible product - what is it?

.....

What makes it Irresistible?

.....

Find a promotion - how do you know it's a promotion?

.....

How much is our Co-op bread?

.....

Where does our Co-op Pinot Grigio come from?

.....

What does the Red Tractor mark tell you about our meat?

.....

Your Store

What time does your store open and close on a weekday?

.....

Find your store's True North compass - what's your store doing well in?

.....

What does this mean for our customers?

.....

Our Ethics

How much money does the One Foundation receive for every litre of Co-op water sold?

.....

Find a bar of Co-op chocolate - what does it tell you about Fair Trade?

.....

What other things can you find in store that are fairly traded?

.....

Community and membership



Membership in your community

Our Co-op Membership not only brings benefits to you but also benefits your local community.

Your Buddy will now tell you all about our membership offer and how that works in your local community.

To help you be the best you can, we have a challenge for you. Fill in the questions below after your conversation with your Buddy. You might need to speak to other colleagues or your Store Manager to find the answers.

About membership

What % reward is 'for you'?

What % reward is 'for your community'?

Where can members find out their reward balance?

What Co-op businesses can members earn reward in?

Colleague member benefits

How do you become a colleague member?.....

What % discount do colleague members get in store?.....

Community

What are your three local causes?

How are the local causes chosen?

How do members choose which local causes to send their community reward to?

Membership in your community

Joining membership

How much does it cost to become a member?

.....

What ways can customers become members?

.....

What do customers need to do in order to register their temporary card?

.....

Can temporary card holders spend rewards?

.....

More on membership

What are independent Co-op societies?

.....

What can our members do on their online account?

.....

How to join as a colleague

If you are already a member of our Co-op you should call our membership contact centre on **0800 023 4708** with your employee number and they will convert you to a colleague member.

If you are not a member already you can join online and quote your employee number to become a colleague member.

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Talking membership

This is your first introduction to the world of 'talking membership' with our customers, you will learn more about this when you attend your 'Welcome to Co-op' event.

A good thing to remember is that your colleagues will be clued up with membership; watch how they introduce it to our customers.

You are a customer yourself so consider how you would like membership to be mentioned to you. We really want you to use your judgement. For example, if a customer looks like they are in a rush it might not be a good time to mention all aspects of our membership offer, just like on the other hand, if a customer has a full basket or trolley we will have more time to talk through the key benefits of the offer.

Here's a few suggestions of things you could say and a re-cap of the key messages:



Core modules












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Setting you up for success

Your core modules are essential to set you up in your new role.

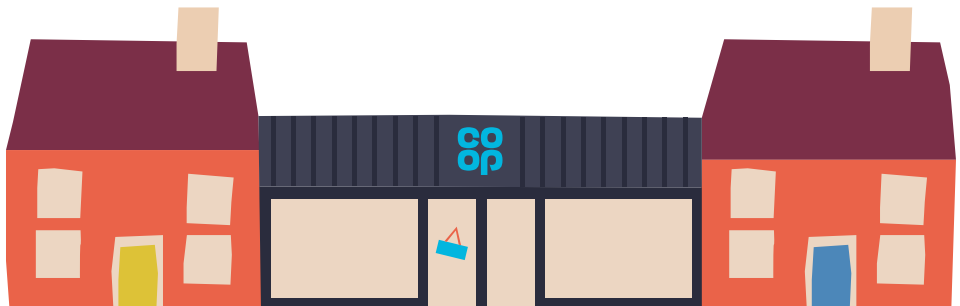
They should be completed in your first week but some need to be completed before you do certain tasks, as it's the law.

We've provided you with a checklist below to make sure you cover everything you need to in your first week.

What do you need to do?	When you need to do it by	Delivered by		Details	
		CITRUS	Manager/ Buddy		
Day 1 Policy Information Sheet	Day 1			We need you to know about our policies on HR Shared Services > People Policies and How Do I	
Essential Petrol Skills (petrol sites only)	Day 1			If you work in one of our petrol sites please complete this before starting any work so you know how to work safely with petrol.	
Health and Safety	Day 1			Your safety is important to us and it's essential that you know the health and safety rules to follow in your store.	
Scottish Licensing (Scotland only)	Day 1			If you work in one of our Scottish stores, it's the law that you need to complete this before going on the shopfloor.	
Tobacco Display Ban <ul style="list-style-type: none"> Scotland England Wales 	Before working on checkouts			There are different rules depending on where your store is and the size of your store. Your Store Manager will assign the right module for your store.	
Age Matters (Level 1)	Before working on checkouts			We want you to follow our Challenge 25 Policy to protect you and our Co-op when you're selling restricted products, which is why you need to complete this before working on the checkouts.	
Post Office Local (Post Office Local stores only)	Before working on checkouts			If your store has a Post Office Local kiosk you will need to refer to How Do I for training before dealing with any Post Office services that we offer.	

Setting you up for success

Food Safety	Before handling any products	✓		We want to keep our customers healthy so it's important that you are aware of our food safety practices in store before handling any of our products.	
Availability	Week 1		✓	We want our products to be available at the right time, in the right place in the right quantity for our customers to buy.	
Energy & Environment Induction	Week 1	✓		We want to be energy efficient as it protects the environment and it reduces our costs.	
Keeping it safe	Week 1	✓		We want you to feel safe at work. Although some of the situations in this module are few and far between you need to know what to do if any of them happen in your store.	
Shopfloor basics	Week 1		✓	Our customers expect great shopfloor standards when they visit your store so we're going to show you what you need to do to meet those standards.	
GDPR	Week 1		✓	You must complete your training during your first week. Using the store's workstation, go to the Food Intranet Home page and in "Quick Links" on the right side of the screen, click on "General Data Protection Regulation (GDPR)". Log in using your employee number as your username and password.	



Shop floor basics

In this module you will learn all of the core tasks you'll need in order to do a brilliant job on the shop floor.

We'll guide you through what good looks like and what you can do to make a difference in your store and for our customers. By the end of the module you'll have the skills and confidence to get started.

The module will consist of a pre work 'Shop floor app' where you'll watch a series of virtual reality clips. Be sure to watch these before starting the module. After that you'll complete a series of activities and questions, using the Shop floor workbook which your Buddy will hand to you. There will be various activities for you to complete on your own and with your Buddy.

To download the app, simply search **Co-op Shop Floor** in the App Store or Google Play Store



Logging in

Your log in is your store hub number, ask your Manager or Buddy if you're unsure.

Your store will have a virtual reality headset for you to use, there's some instructions on the next page on how to use the headset. If you prefer not to use the headset that's fine, you can choose the option on the screen. Try sitting down whilst watching the clips for the first time.

Headset Instructions



Open the velcro on the top



Pull open to reveal the two side panels



Fold back the two panels



Open out the whole panel, then fold it underneath



Secure the side panels down using the velcro pads



Remove the lense covers



Pop your device inside, make sure it's secure using the rubber band

Welcome to Co-op



Invitation



**You are invited to attend a
'Welcome to Co-op' event.**

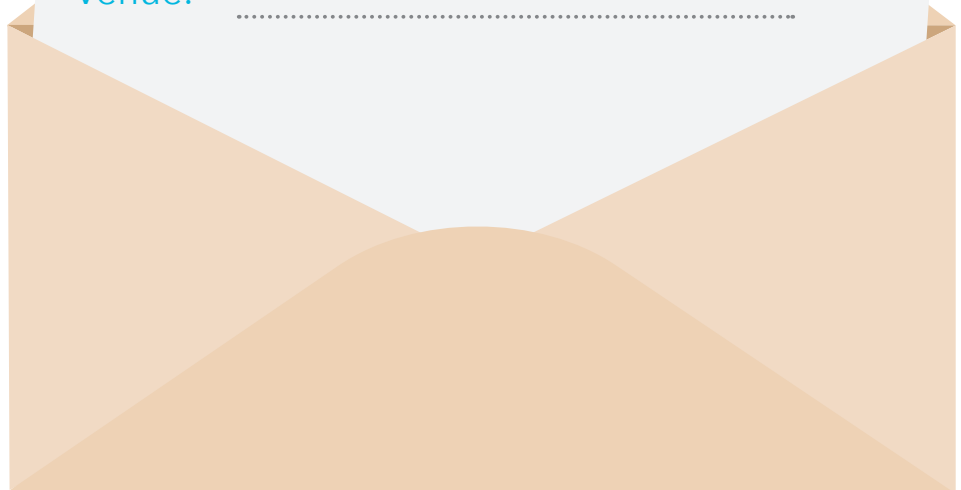
It will be a fun and relaxed event all about looking at how you can have a positive impact on our customers and making your store the best it can be.

Book your event with your Store Manager and note the details below:

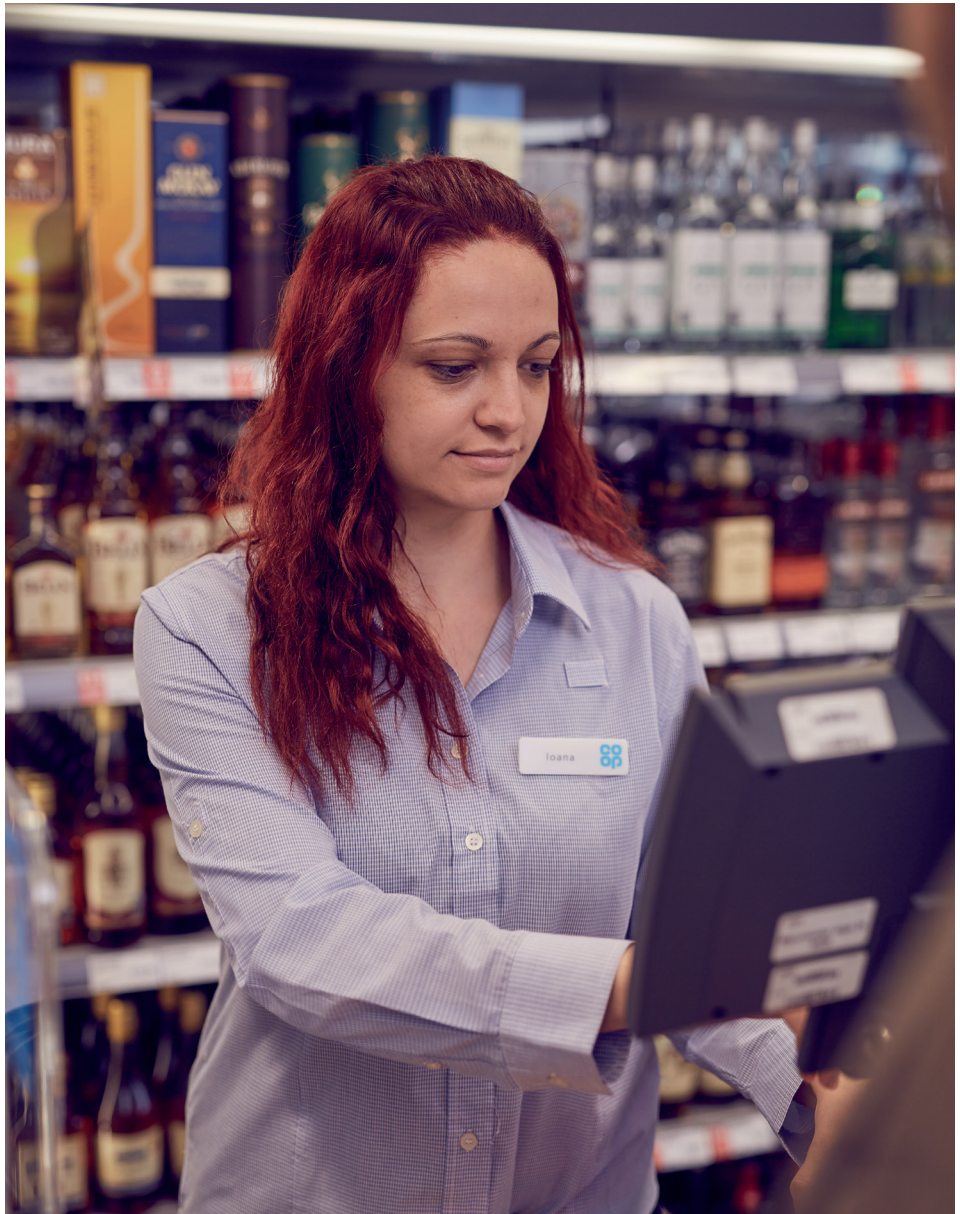
Date:

Time:

Venue:



Department training



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Electronic Point of Sale (EPOS)

For this module you should complete the questions below with support from your Buddy.

There will be various activities for you to complete on your own and with your Buddy.

Shelf Edge Labels (SELs)

Why are SELs important?

.....

.....

.....

Where do SELs sit?

.....

.....

What information is shown on a SEL? Use your knowledge to complete the information below:



What else is shown on the SEL for produce? Why's it important?

.....

.....

Find the SEL for Diet Coke cans, what's different about it? What does the symbol mean?

.....

.....

What do you do if there's a SEL missing?

.....

Electronic Point of Sale (EPOS)

Point of Sale (POS)

What other labelling and signs can you see around the store?

.....

.....

.....

What's a POS kit and when would you use it?

.....

.....

.....

What's a planogram? How do you use it to position products?

.....

.....

.....

What advertising can you see from outside your store? Why is it important?

.....

.....

.....

What do you do if there's a POS sign missing?

.....

.....

.....

How do you run a price check on the shelves?

.....

.....

.....

Warehouse

For this module you should complete your 'Colleague Warehouse Workbook' which will be given to you by your Buddy.

There will be various activities for you to complete on your own and with your Buddy.

Pre-work



Watch the Warehouse clip on the Shop floor app before completing the module.



News and Mags

We want to offer our customers great News and Mags all day, everyday. We'll show you all the processes from delivery to returns and explore how we can do this in the most cost effective way for our Co-op.

Your News and Mags training is delivered via CITRUS and then you should buddy up with another colleague to shadow them so you get the on-job experience before being let loose on your own.

Your Store Manager needs to assign the following modules for you to complete:

Module 1 - Delivery and Service Levels

In this module we'll look at how your news and mags get to your store and how you should check to ensure you get everything you're being charged for by the supplier.

Module 2 - Merchandising & Weekly Activity

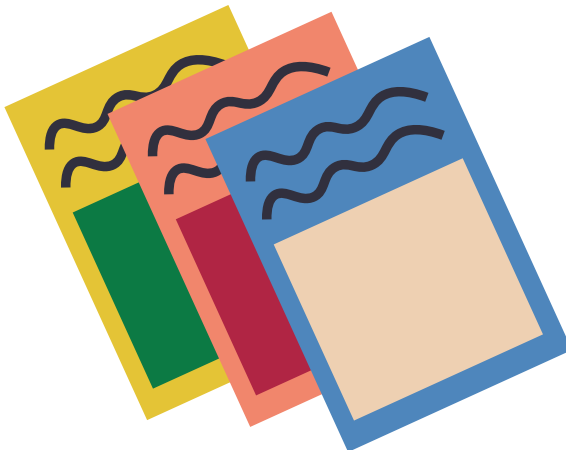
In this module we'll look at what great merchandising looks like and what you need to do on a weekly basis to keep your news and mags section looking great for our customers.

Module 3 - Returns & Documentation

In this module we'll look at how to complete the returns process and the documentation that you need to complete, along with it to make sure your store gets the right credits.

Module 4 - Order Levels & Customer Orders

In this module we'll look at how you can amend your order levels if you're getting too much stock, or not enough stock and how you can order one-off requests for customers.



There will be various activities for you to complete on your own and with your Buddy.

Here's some instructions on how to fold up your 'Core Checkout Guide':

Front





[Back](#)





Folding instructions


- 1 Tear out the Core Checkout Guide



 - 2 Flip the Core Checkout Guide so the back page is facing you


 - 3 Fold down the middle vertically


 - 4 Fold along the centre horizontally


 - 5 Fold along the centre horizontally again


 - 6 Your Core Checkout Guide is complete and ready to carry in your pocket





Core Checkout Guide

Carrier Bags

The law requires all stores to charge for single use carrier bags given out.

The 5p charge applies to the following bags:

- Standard single use carrier bags – the customer must be charged 5p for each carrier bag taken

The 5p charge doesn't apply to the following:

- Thin plastic bags produced for or for raw unpackaged meat, poultry or fish (containers)
- Butchery or fish counters
- Any plastic bag used for loose bakery items, loose food to go products or pick 'n' mix sweets
- Flower bags
- Cardboard wine carriers

Ask customers if they have their own bag, if not offer one, informing them of the 5p charge or the bag for life option. Offer to pack the customer's bag for them. Thank them and say good bye.

Voids and Refunds

- To void a single item: press Line Void > Enter the number of the line you need to take off the bill
- To void the whole transaction: press Managers Function > Void Transaction > Yes
- For a refund: press Managers Function > Refund > scan the product > select the correct reason code. If the customer doesn't want to make a complaint press No
- For customer complaints follow the till prompt to fill in the customer details > press No if the customer doesn't have a membership card or Enter and scan if they have a card
- Enter the amount of the refund then press cash if the customer paid cash for the item. Press EFT if the customer paid with a card. Ask the customer to sign the refund receipt and place in the till. Give the customer the value in money if it's a cash refund
- Complete the transaction by pressing Managers function > No Sale > Yes then place the receipt in the till

Lottery

- Process the Lottery through the Lottery terminal following the Lottery terminal training guide which can be found on How do I policies > Lottery training guide
- Scan the Lottery ticket barcode on the till. If the barcode does not scan, press Lottery > Lottery sales > Type in the amount of the ticket > Enter
- A prompt will then ask you if the customer is over 25. Follow the Challenge 25 Policy to complete this section of the transaction
- Scan any other items the customer may have and complete the transaction as normal. Ensure the customer receives their Lottery ticket
- Thank them for their custom and wish them a good day

PayPoint

PayPoint is a well-recognised brand that enables customers to pay a wide variety of bills including bills, with cards, keys, tokens etc. and allows for mobile and overseas top ups to be purchased.

- Carefully follow the screen instructions when carrying out all transactions. Only when the transaction has completed should you give the customer back their card, key or bill, and hand them their PayPoint receipt
- For transport ticket transactions, remember to place and seal the receipt within the receipt wallet provided
- If you're not sure if you can accept a customer's card, key or bill - just try it or look through your terminal touch screen menus
- A small percentage of PayPoint transactions will fail. This is caused by a network failure with PayPoint
- The till will display a prompt then add the value of the failed transaction to the change due on the till screen and on the receipt

Gift Cards

- Scan the long barcode on the back of the gift card, when the sale appears on the till screen, check the amount is correct
- Once a gift card is activated, the transaction should never be voided unless a card is declined or the customer does not have enough cash
- If this is the case you should send the gift card to the supplier. Phone operational store support for more information on 0844 262 2001 Option 2
- Scan any other items the customer may have and complete the transaction as normal
- Once the transaction is complete you will get a gift card receipt with the customer's normal receipt. Make sure you give the customer both receipts. Thank them for their custom and wish them a good day

Never scan the little barcode on the back of the gift card. This will charge the customer but not activate it.

Saving Stamps

Sales

- Press Service > Saving Stamps > enter the amount of saving stamps the customer requested. Complete the transaction as normal
- When the till opens give the customer the amount of saving stamps requested. As the stamps are sticky, always make sure that you've only given out the right amount

Redemption

- Make sure the customer has stuck all the saving stamps onto a saving stamp card and filled in their details on the back of the card
- At the payment screen enter the value of the saving stamps and press saving stamp
- Put a pen mark across the stamps to show they've been used and place the saving stamps into your till
- Each saving stamp is the value of £1. Change can only be given up to the value of 99p. Saving stamps can't be used to buy lottery, concessions, coffee shop products or fuel

Standards

To ensure we deliver and meet customer expectations every time they choose to shop with us, we have store standards in place to keep things running smoothly.

- Make sure all damaged and loose stock has been removed
- Keep all items in the right place and labelled
- Replenish kiosk supplies (till rolls / carrier bags) in the designated area
- Wipe down surface areas to keep them clean
- Make sure the floor is clean and clear of slip, trip and fall hazards
- Tidy and replenish kiosk displays
- Keep the cigarette gentry doors closed with price list displayed
- Adopt a 'clean as you go' process on all sections
- Ensure all legal signage is displayed
- Make sure there are clean customer baskets available - trolleys if applicable
- Keep the managers workstation clear and clutter free
- During busy periods make sure the combined Office till has colleagues to cover it so your kiosk is set up to planogram the kiosk door free from clutter and parcels
- Keep carrier bags stocked up so that they're available when the customer needs one



Things that shouldn't be on the kiosk:



- Reduced to clear products
- Anything that blocks customers or causes a safety issue
- Multiple charity boxes
- Lost and found items

Visitor sign in

- Any contractors must sign in and out of the visitors book upon arriving at and leaving the store
- Let contractors know your store's fire safety provisions, procedures and arrangements upon arrival at the store. The 'visitor/contractor instructions sheet' should be attached to the front of the visitors book for this purpose
- Any accidents or incidents involving a contractor must be reported using the Accident process
- Let contractors know of any site specific hazards which they should be aware of during their visit, such as deliveries



A great looking kiosk gives our customers the right impression about our stores - clean and well organised

Maintain a clean, tidy, clutter-free and efficient kiosk with everything in the right place and readily available



Offer a quick and efficient service for our customers, which will result in happy/loyal customers that will return to our stores

Customer

Conversation: Deals

- Increasing awareness of our offers in stores gives customers the confidence that we as a business offer great value for money
- Engaging with customers also provides a high level of customer service and shows customers that we care about their needs - we don't see them as just another transaction
- Always be aware of what's currently on promotion
- Engage with customers on the shop floor and chat to them about what's in their basket - remember to greet them with eye contact and a smile
- Chat with the customer on both the shop floor and the kiosk, offering alternatives and meal solutions where necessary

Age Related Sales Challenges

A Challenge 25 process is used to confirm the age of any person trying to buy an age restricted item. You must challenge any customer who appears to be under the age of 25, to produce an acceptable form of identification if they're buying an item which is age restricted. The till point will also remind you to do this.



Additional department training



Become a specialist

There are some departments we have that your store may or may not have. These are specialist areas and not all colleagues will need to be trained on them. If you're interested in these and your store has them, have a conversation with your Store Manager to let them know.

Bakery/Hot Food/Coffee

We want our customers to love our prepared food departments. We'll show you what you need to do to cook and display the products and how to make sure our products are available. We'll explore food safety in relation to our prepared food departments and how this can impact on our customers.

You will need to have completed the Food Safety Level 2 course.

Delicatessen

We want to offer our customers a great deli service. We will show you how to operate a deli and how to make our products look their best. We'll explore what you need to do to deliver great customer service.

You will need to have completed the Food Safety Level 2 course.

Post Office

We want to give our Post Office customers great service whilst operating within Post Office guidelines. We'll show you what services are available and how to meet our customers needs.

Cash

We want our cash to be handled with care. We'll show you what you should do with our cash to handle it securely. We'll explore how cash handling is an important part of your role and what could happen when we don't follow the correct processes.



Ready, set, go!



Ready, set, go!

The following questions are designed to help you remember the information you've learnt during your induction. Jot down your answers and show them to your Store Manager who will be able to check them for you. It's important that you complete these as they are part of your induction sign off.

Introduction to Co-op

Name the Ways of Being Co-op values and describe what they mean to you.

What does it mean to be a member of our Co-op?

What rewards do members get?

Ready, set, go!

How do you set up new members using a temporary card?

Community

What are the local causes your store supports?

How were the local causes selected?

Ready, set, go!

Shop floor

What type of customers visit your store?

What times of the day is your store busiest?

On average how much money does your store make each week?

Walk around your shop floor with your Store Manager or another colleague imagining that you're a customer. Talk to them about anything you think could be improved on your shift or in the future. Write a couple of key points down afterwards to summarise what you talked about with them.

Ready, set, go!

Service

How can you provide great service on the shop floor?

How can you provide great service when you're on the checkout?

How can you help to manage queues in your store?

What do customers think about your store?

Ready, set, go!

News and Mags

Showcase the News and Mags section to your Store Manager or another colleague and describe how it shows 'what good looks like'. Write a couple of key points down afterwards to summarise what you talked about with them.

Bakery (if trained)

Showcase your Bakery department to your Store Manager or another colleague after you've been working in it. Describe 'what good looks like' in the Bakery. Write couple of key points down afterwards to summarise what you talked about with them.

Store Manager sign off

Once you've completed the questions above sit down with your Store Manager who will check them for you. They should then sign below to confirm that they have checked these and signed off your induction.

Store Manager name:

Store Manager signature:

Date:

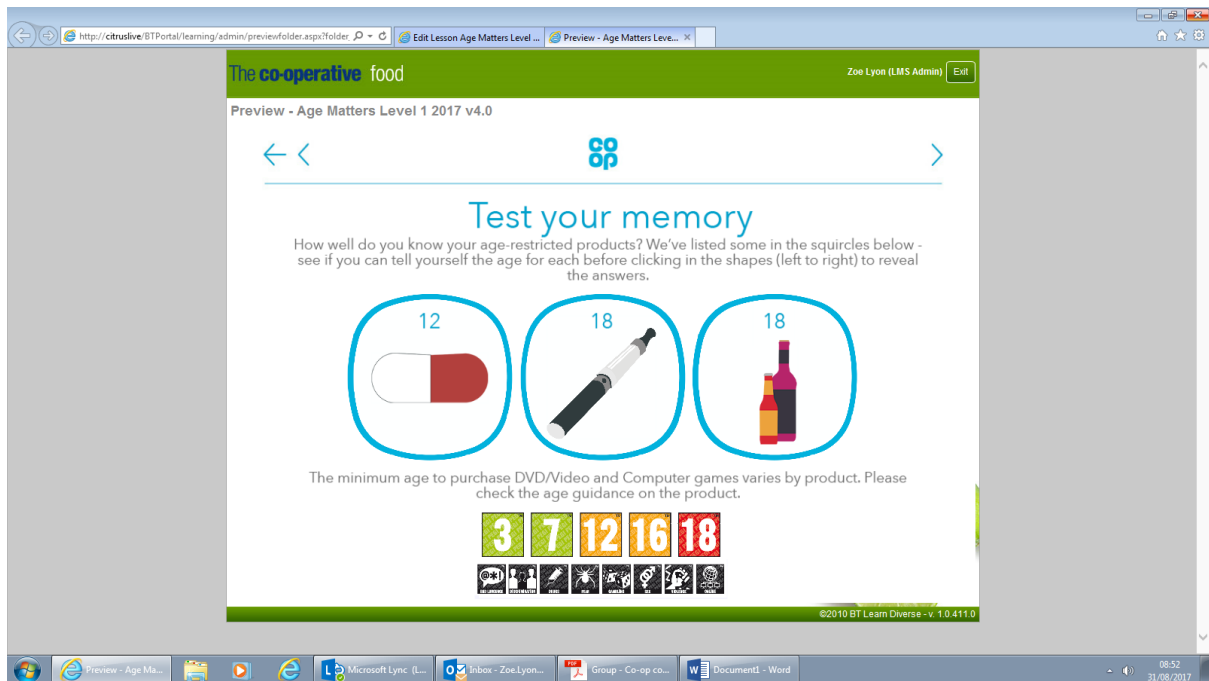
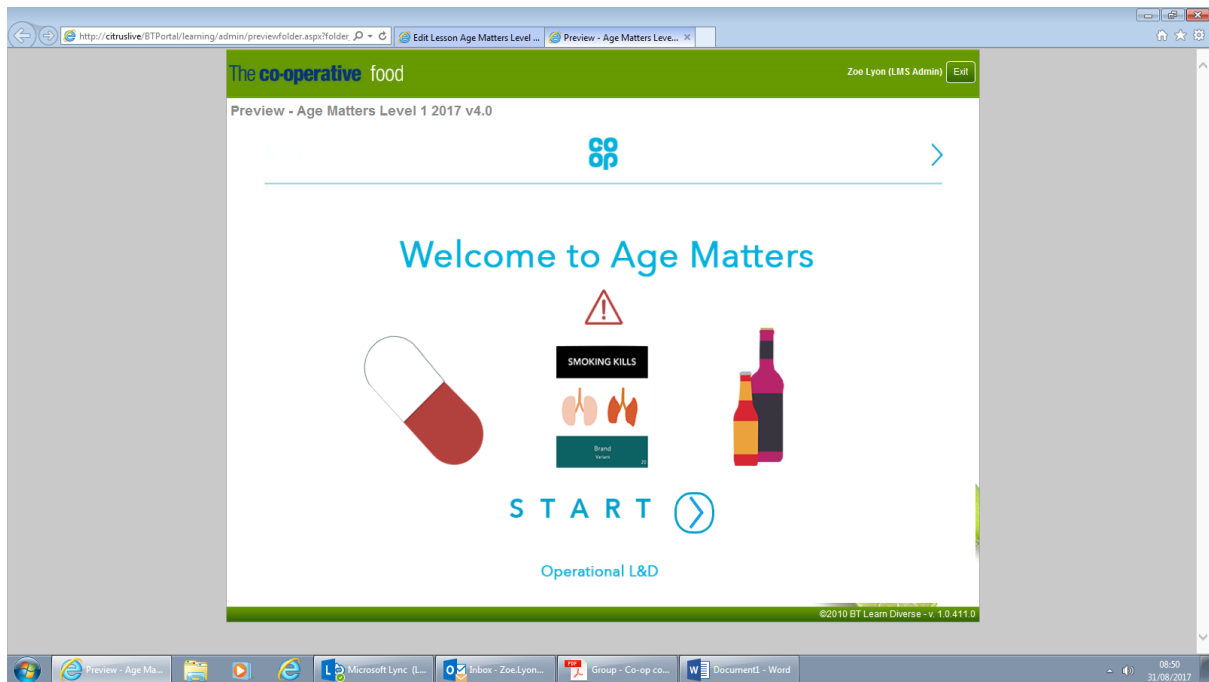
Notes

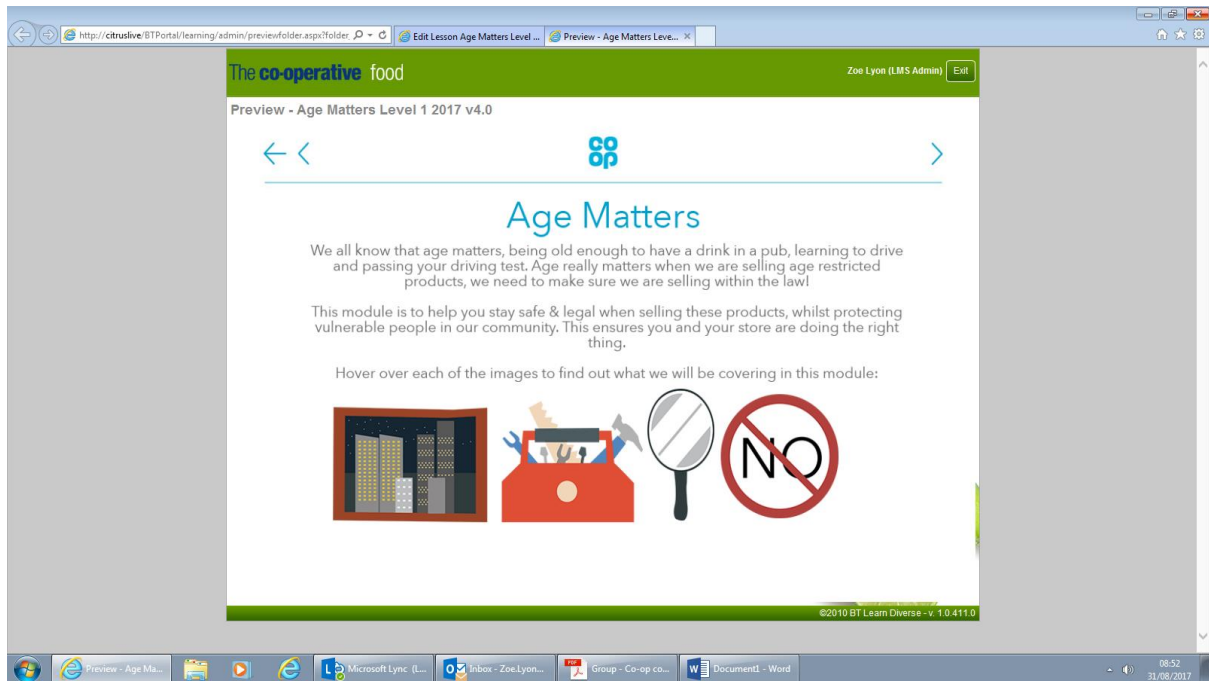


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Version: 1.6 (23.07.18)





The Bigger Picture – The impact of selling products to under age people

The Toolkit – What tools are there to help you

How old do I look? – Challenge 25, the when and how

Just say no – Refusing a sale

The co-operative food

Zoe Lyon (LMS Admin) [Exit]

Preview - Age Matters Level 1 2017 v4.0

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Checks are ramping up

Recently there has been an increased emphasis on stores that sell Knives, Hair Dyes and Solvents. Click the squircles to reveal more info:

- Knives** For stores that sell kitchen knives, due to police and community concerns over knife crime we will see increased test purchases on these.
- Solvents** The law has recently changed on solvents - there is now no minimum age for restricting their sale. You need to use your best judgement - refuse the sale if you believe a customer is buying with the intention of using them to get 'high'. Have you read the Solvents factsheet which explains more? This can be found in the Age Restricted Sales area of CITRUS Policy.
- Hair Dyes** Stores that sell these must read and understand the new associated document. This can also be found in the Age Restricted Sales area of CITRUS policy.

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The co-operative food

Zoe Lyon (LMS Admin) [Exit]

Preview - Age Matters Level 1 2017 v4.0

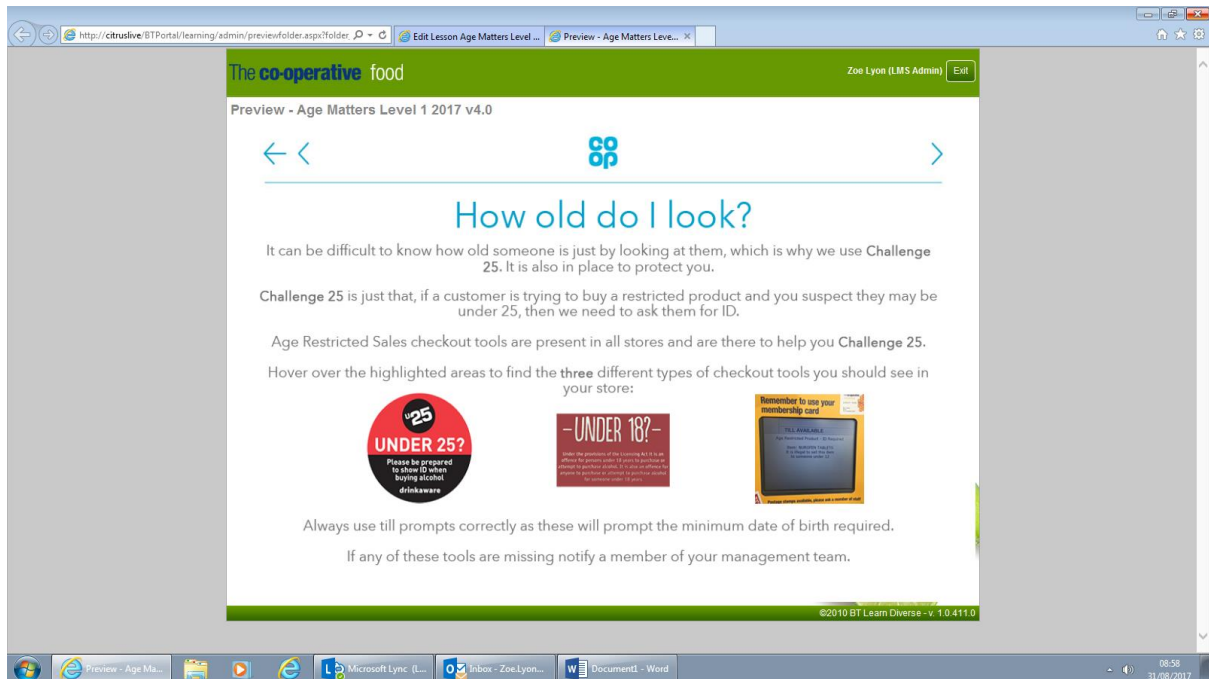
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Challenge 25 - What does it mean?

You're told to abide by 'Challenge 25' - but what does that actually mean? Hover over your choice from below (read them carefully!):

- A** If you think a customer buying alcohol or other related products is under the age of 25, you are advised to ask for ID to see if they are old enough to do so.
- B** If you think a customer buying alcohol or other related products is under the age of 25, you should inform a colleague that you are selling an age-related product.

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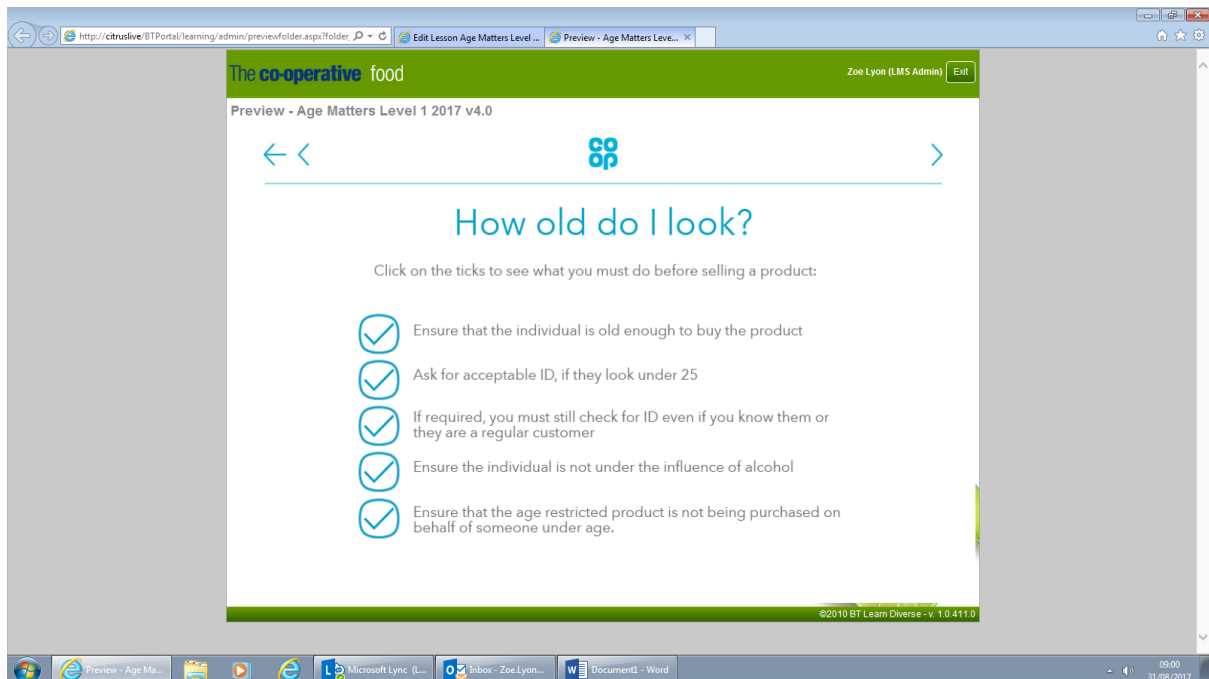


Hover overs

Challenge 25 Badge

Age restricted Point of Sale

Customer facing till screen



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How old do I look?

From time to time the police and other enforcement officers will conduct test purchases to check our systems and procedures work in preventing under age sales. Therefore it is vital that the Challenge 25 policy is being used.

If you are notified you have failed a Test Purchase (FTP), then you must notify your manager immediately.

Please remember that the same process for following Challenge 25 will need to apply when supervising a self-checkout (AST). Before you authorise the purchase you need to be confident that they are old enough to purchase the product.



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How old do I look?

When checking someone's ID, it can be hard to tell if it is genuine, just by looking at it. Hover over the ID for some tips to help spot a fake ID. There are 5 key areas to find.



Compare the customer to the ID. Does the person presenting the ID actually resemble the picture?

Or does he resemble the picture too closely?

Here's what to look for:

- If the customer is wearing exactly the same clothing and hairstyle as the photo on the ID, be suspicious. The ID might have been made hours before.
- Look for slight differences in facial features. People often present the IDs of close family members as their own.

Look for signs of anxiety. If the customer is avoiding eye contact, or looking nervous, be suspicious.

If you're still unsure, smile at the customer and say, "I think I need my manager to take a look at this." If it's fake, the customer will want it back immediately, and you can hand it back and refuse the sale. If it's real, he or she will probably be fine with having a second set of eyes on the ID.

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How old do I look?

When checking someone's ID, it can be hard to tell if it is genuine, just by looking at it.
Hover over the ID for some tips to help spot a fake ID. There are 5 key areas to find.



Ask the customer for information from the ID such as their date of birth. If he or she has stolen someone else's ID, they might not remember smaller details.

If the customer cannot give their personal information without hesitation then it may be a fake or stolen ID.

If in doubt ask for additional photo ID. A lot of fake IDs are legitimate IDs that were lost, stolen or transferred. If that's the case, the customer won't have any additional ID as backup.

Look for signs of anxiety. If the customer is avoiding eye contact, or looking nervous, be suspicious.

If you're still unsure, smile at the customer and say, "I think I need my manager to take a look at this." If it's fake, the customer will want it back immediately, and you can hand it back and refuse the sale. If it's real, he or she will probably be fine with having a second set of eyes on the ID.

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The co-operative food


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How old do I look?

Whenever you come across an age related sale and you are unsure of the person's age, you must ask for ID.

The till will always prompt you when selling age related products.

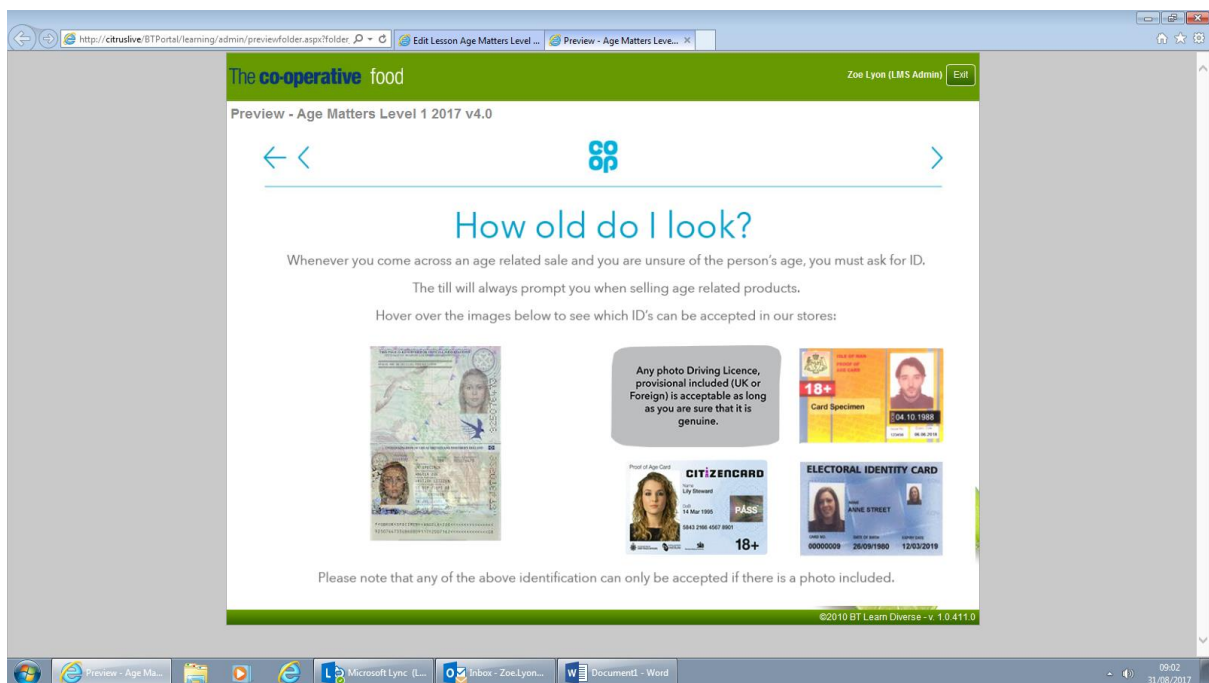
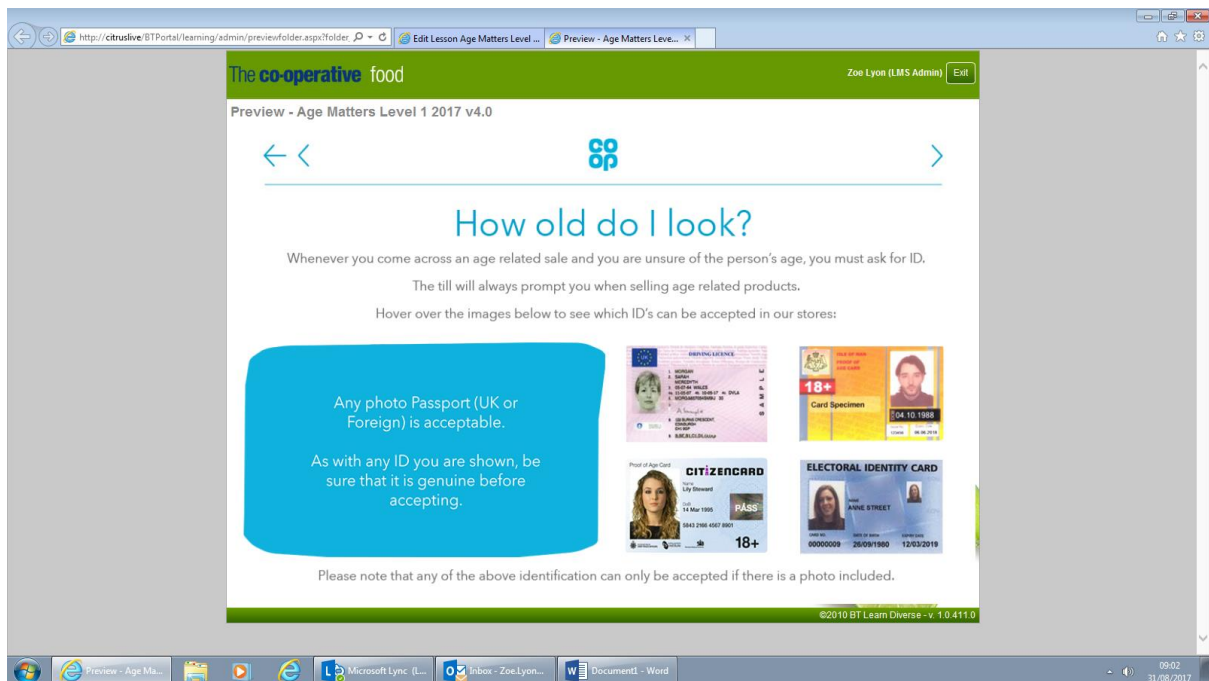
Hover over the images below to see which ID's can be accepted in our stores:



Please note that any of the above identification can only be accepted if there is a photo included.

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The co-operative food Zoe Lyon (LMS Admin) Exit

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How old do I look?

Whenever you come across an age related sale and you are unsure of the person's age, you must ask for ID.

The till will always prompt you when selling age related products.

Hover over the images below to see which ID's can be accepted in our stores:



Isle of Man (IOM) Stores - local relevant ID cards can be accepted.
The main ID card used in IOM for alcohol is 'Proof of ID' card.

Please note that any of the above identification can only be accepted if there is a photo included.

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How old do I look?

Whenever you come across an age related sale and you are unsure of the person's age, you must ask for ID.

The till will always prompt you when selling age related products.

Hover over the images below to see which ID's can be accepted in our stores:



Proof of Age Card which carries the PASS hologram. There are many variations of the PASS card including 12+, 16+ and 18+, check your CITRUS policy to find out more.
Please note PASS cards cannot be accepted in the Isle of Man.

Please note that any of the above identification can only be accepted if there is a photo included.

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How old do I look?

Whenever you come across an age related sale and you are unsure of the person's age, you must ask for ID.

The till will always prompt you when selling age related products.

Hover over the images below to see which ID's can be accepted in our stores:



Please note that any of the above identification can only be accepted if there is a photo included.

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The Bigger Picture

There are many repercussions to under age selling.


Failing to uphold your responsibilities can have serious consequences to you and your store.

Hover over each picture below to find out more:

You:

1. On the spot fine of £90 (Scotland £200)
2. Potential disciplinary process and job at risk
3. Taken into custody, fingerprinted and DNA swab taken
4. Court proceedings, with an unlimited fine, formal caution or imprisonment.

Remember to always ask for an acceptable form of ID. The challenge 25 Policy is there to protect you.



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The Bigger Picture


There are many repercussions to under age selling.

Failing to uphold your responsibilities can have serious consequences to you and your store.

Hover over each picture below to find out more:

The Customer:

1. An unlimited fine if caught buying a restricted product for someone under age
2. Embarrassment
3. Possible criminal record
4. Could impact career prospects.



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The Bigger Picture


There are many repercussions to under age selling.

Failing to uphold your responsibilities can have serious consequences to you and your store.

Hover over each picture below to find out more:

The Store:

1. Licence could be suspended or revoked
2. Right to sell selected or any restricted products could be removed
3. Loss of sales
4. The incident could also be reported in the media, resulting in bad press and poor local reputation.



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The Bigger Picture


There are many repercussions to under age selling.

Failing to uphold your responsibilities can have serious consequences to you and your store.

Hover over each picture below to find out more:

The Wider Community:

1. Alcohol abuse accounts for 47% of violent crimes committed each year
2. 33,000 people die from excessive drinking each year
3. There is 1 death a week from solvent abuse.



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The Bigger Picture



The People in Our Community

When selling restricted products, we also need to pay attention to **who** we are selling to.

Not only do we need to ensure the customer is old enough to purchase the item, we also need to ensure they are not intoxicated. This can be seen in various physical elements, such as:

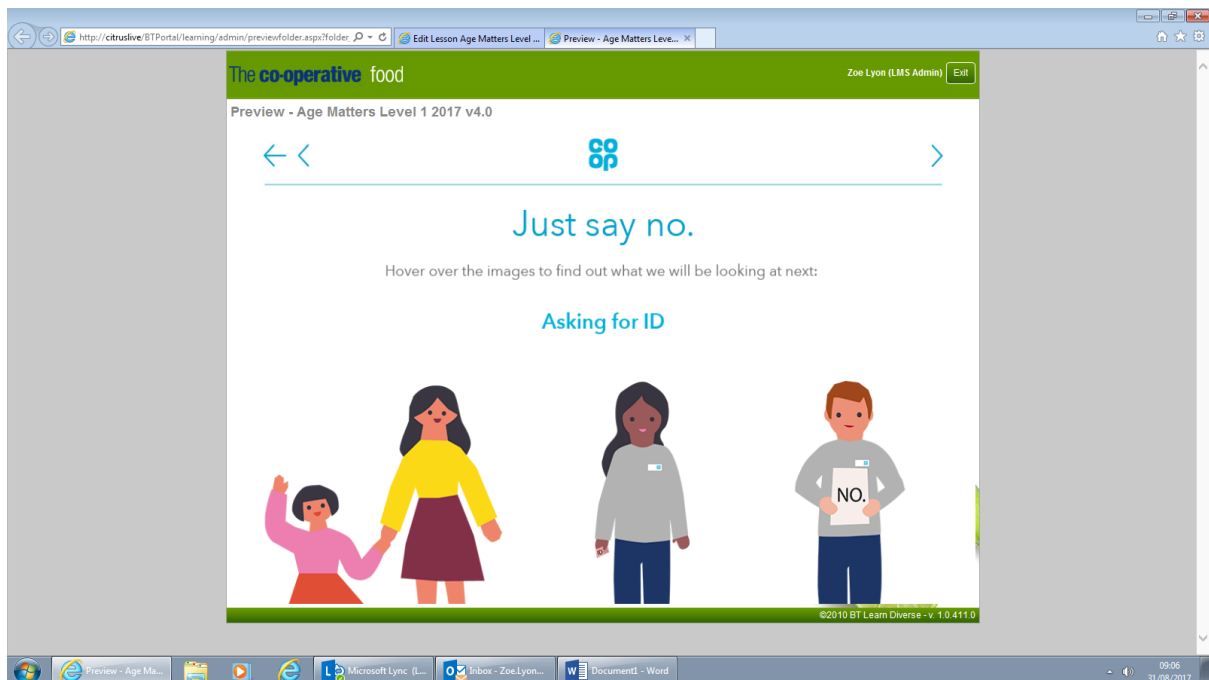
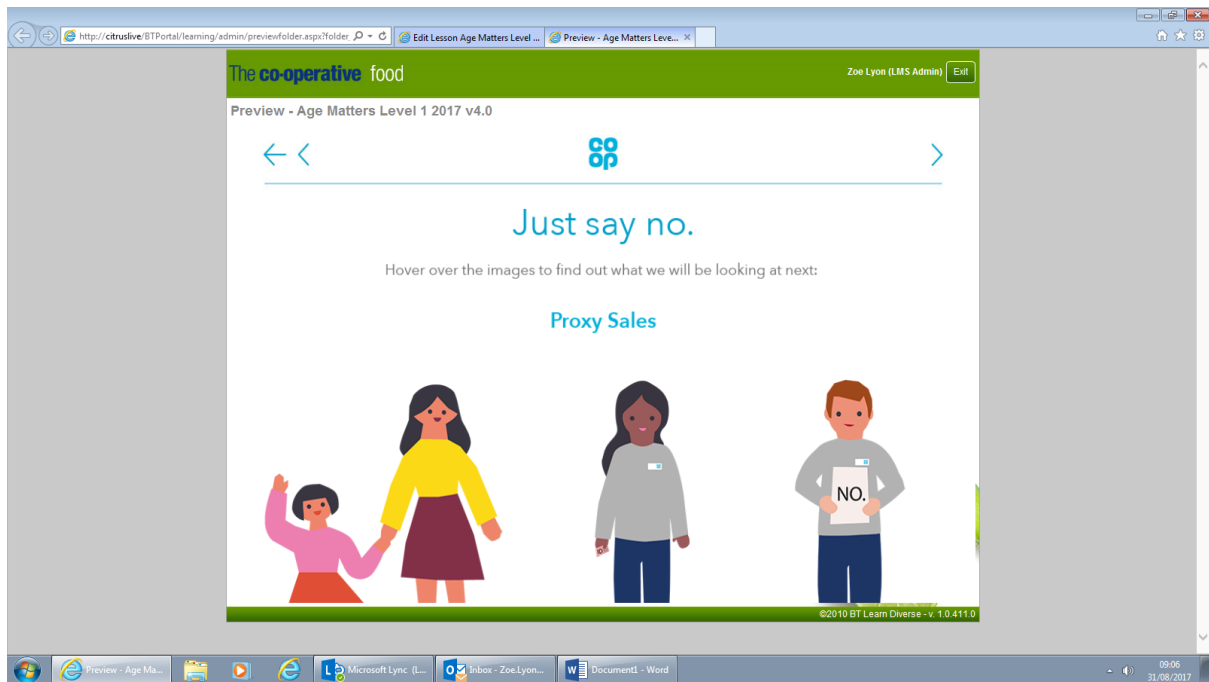
- Slurred speech
- Stumbling or swaying
- Flushed face
- Dropping things/difficulty picking them up
- Smell of alcohol on the person

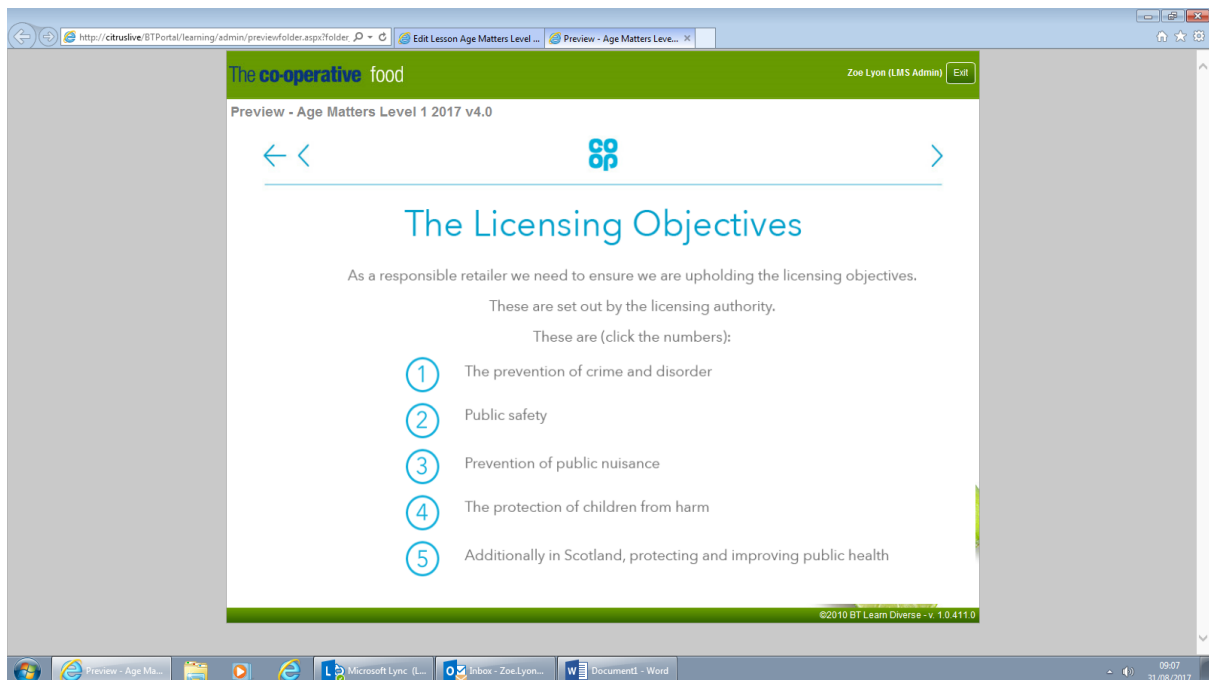
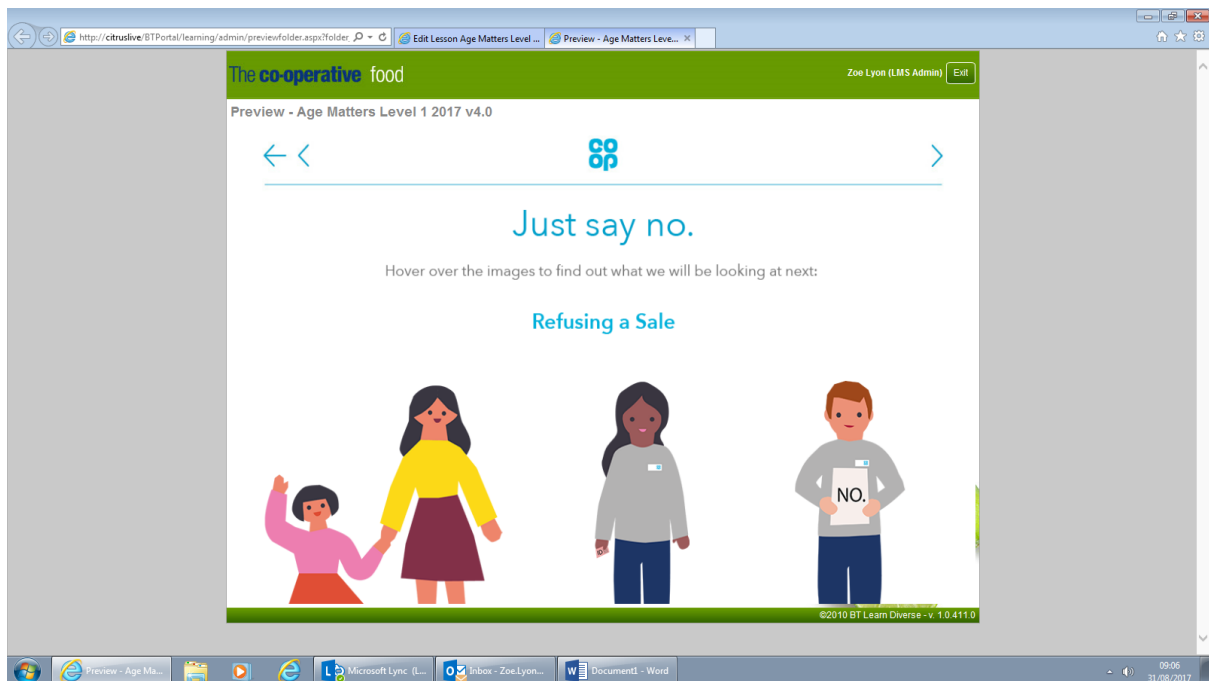
The above elements could also be a sign of illness rather than intoxication. This can be a difficult call to make. There is no reason for us not to sell to someone who is unwell. However we do have a responsibility to make sure they do not come to any harm. If you need more advice then speak to your manager.

This is a good example of thinking about and looking out for the people in your community.

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Just say no - Proxy Sales


We can support the 'Prevention of children from harm' licensing objective by ensuring we are not selling any age related products to people underage. If you believe an age restricted product is being bought for someone under-age you have a responsibility to refuse the sale. This is known as a proxy sale.

There are common things to look out for, if you believe a proxy sale is taking place.


Click on the images to find out what these are:




Young people loitering outside the store, speaking to different customers.



Products that appeal to young people e.g. Alcopops, Vodka, cheap wines, cider and lager.



Purchases made using lots of small change.



Alcohol only sales.

Customers may also be unaware that purchasing alcohol for someone under age is an offence and they could be fined up to £5,000.

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Just say no

In spite of the previous points it can be very difficult to know if a proxy sale is taking place. Lets take a look at 2 scenarios. Click the scenario you think could be the proxy sale:



- Martin comes in with four of his mates
- Martin has ID to show that he is 19
- He is buying a 24 pack of beer.

This could be a proxy sale. It is unlikely that Martin is going to drink all 24 himself! As he came in with others we would need to ask if the beer was for them too. If so we would need to ID them also.



- Barbara comes into the shop with her two grandchildren aged 11 and 14
- She comes in to buy a bottle of wine.

This doesn't look like a proxy sale. It is most likely that Barbara has bought the bottle of wine for herself to take home or maybe to a friends.

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09:12 31/08/2017

The screenshot shows a web browser window with the URL <http://citruslive/BTPortal/learning/admin/previewfolder.aspx?folder...>. The page is titled "The co-operative food" and "Preview - Age Matters Level 1 2017 v4.0". The user is logged in as "Zoe Lyon (LMS Admin)".

The main content area has a green header with the text "The co-operative food" and a user profile "Zoe Lyon (LMS Admin)" with an "Exit" button. Below the header, the page title "Just say no - Proxy Sales" is displayed in a large blue font. The text below the title reads: "When asking for ID, it can be hard to know what to say, what would you say? Pick from the list below what you think you should say:".

There are four blue buttons with white text, each containing a letter and a phrase:

- A) 'ID Please'
- B) 'Can I see some ID please'
- C) 'We have a under 25 policy here, so would you mind showing me some ID'
- D) 'ID now!'

Below the buttons, the text reads: "So when you need to ask someone for ID, use points B and C, and avoid the other 2! Feel free to have a play around to word it slightly differently, this isn't a script you have to say word for word."

The footer of the page contains the text "©2010 BT Learn Diverse - v. 1.0.411.0".

The screenshot shows the same web browser window as the first image, but with a feedback message displayed on the right side of the page. The feedback message reads: "Incorrect; This is a little short and could be worded better. Choose another option."

The main content area is the same as in the first image, with the title "Just say no - Proxy Sales" and the four blue buttons. The text below the buttons is also the same: "So when you need to ask someone for ID, use points B and C, and avoid the other 2! Feel free to have a play around to word it slightly differently, this isn't a script you have to say word for word."

The footer of the page contains the text "©2010 BT Learn Diverse - v. 1.0.411.0".

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The co-operative food

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Just say no - Proxy Sales

When asking for ID, it can be hard to know what to say, what would you say? Pick from the list below what you think you should say:

A) 'ID Please'

B) 'Can I see some ID please'

C) 'We have a under 25 policy here, so would you mind showing me some ID'

D) 'ID now!'

Short but covers the necessary points and is professional.

So when you need to ask someone for ID, use points B and C, and avoid the other 2!

Feel free to have a play around to word it slightly differently, this isn't a script you have to say word for word.

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Just say no - Proxy Sales

When asking for ID, it can be hard to know what to say, what would you say? Pick from the list below what you think you should say:

A) 'ID Please'

B) 'Can I see some ID please'

C) 'We have a under 25 policy here, so would you mind showing me some ID'

D) 'ID now!'

This is good as its offers a full explanation in a clear and concise way.

So when you need to ask someone for ID, use points B and C, and avoid the other 2!

Feel free to have a play around to word it slightly differently, this isn't a script you have to say word for word.

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Just say no - Proxy Sales

When asking for ID, it can be hard to know what to say, what would you say? Pick from the list below what you think you should say:

A) 'ID Please'

B) 'Can I see some ID please'

C) 'We have a under 25 policy here, so would you mind showing me some ID'

D) 'ID now!'

Incorrect: This one we definitely wouldn't use, could come across as rude and unprofessional. Choose another option.

So when you need to ask someone for ID, use points B and C, and avoid the other 2!

Feel free to have a play around to word it slightly differently, this isn't a script you have to say word for word.

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Preview - Age Matters Level 1 2017 v4.0

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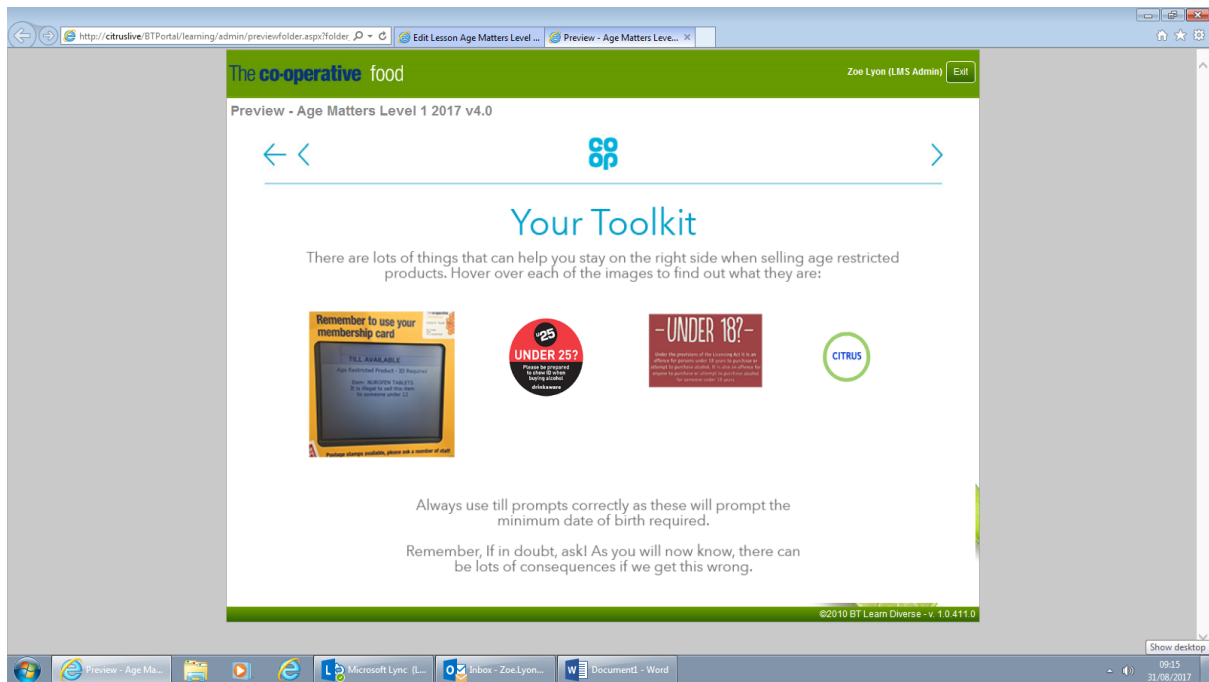
Just say no

Click on the numbers to reveal the 7 behaviours which can help when refusing a sale:

- 1 PROFESSIONAL
It is so important to be professional at all times, especially when a customer isn't happy.
- 2 EYE CONTACT
Sounds so easy right? Make sure you make eye contact with the customer when talking to them.
- 3 RESPECT
Always show respect to the customer. You can do this by letting them have their say and listening attentively.
- 4 CLEAR
When you are speaking to the customer you need to be clear and concise at all times. This means being aware of how fast you are talking and ensuring that they can hear you.
- 5 LISTEN
It is quite a skill to really listen to what someone is saying: it also involves listening to how they are saying it. This could really show what a customer is feeling or thinking.
- 6 POSITIVE
Always be positive and show this in your body language, tone of voice and eye contact.
- 7 WARM
Your tone of voice and body language should be warm and non-defensive.

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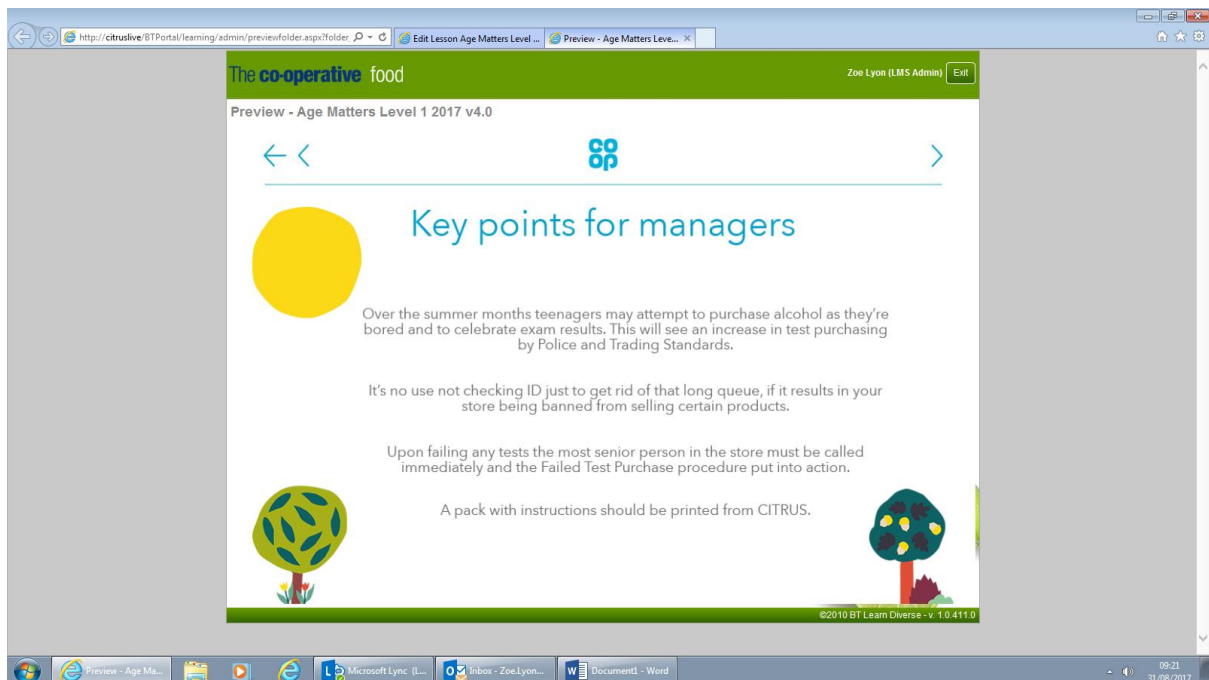


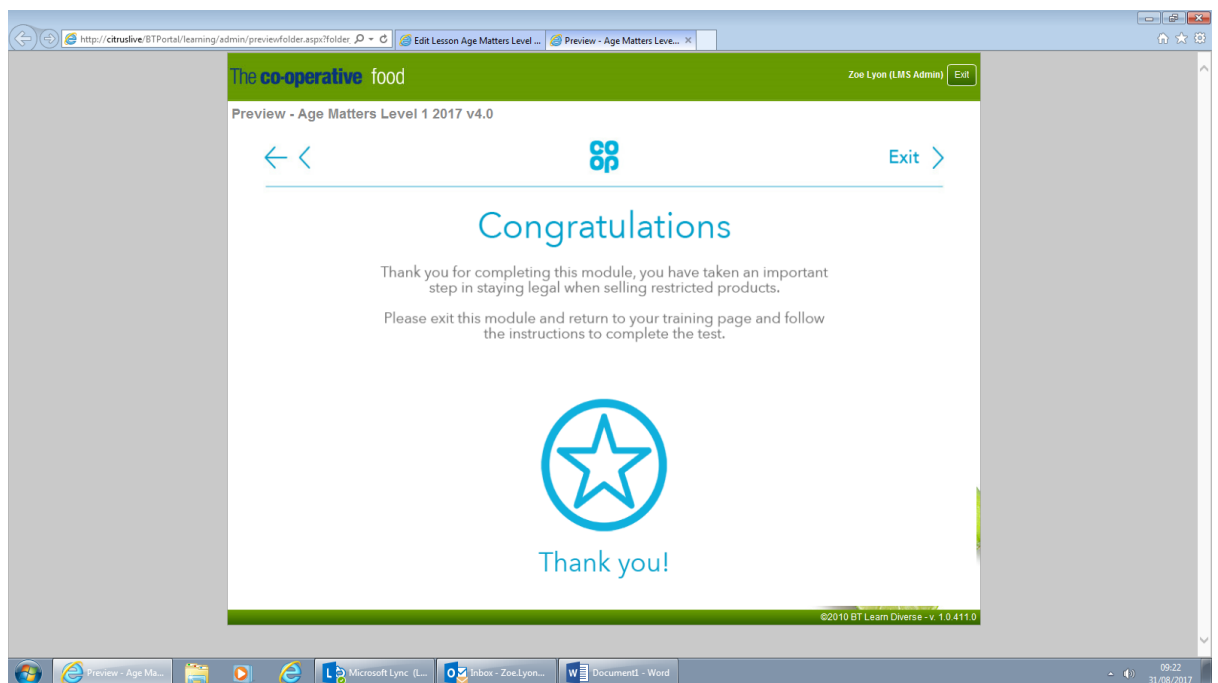
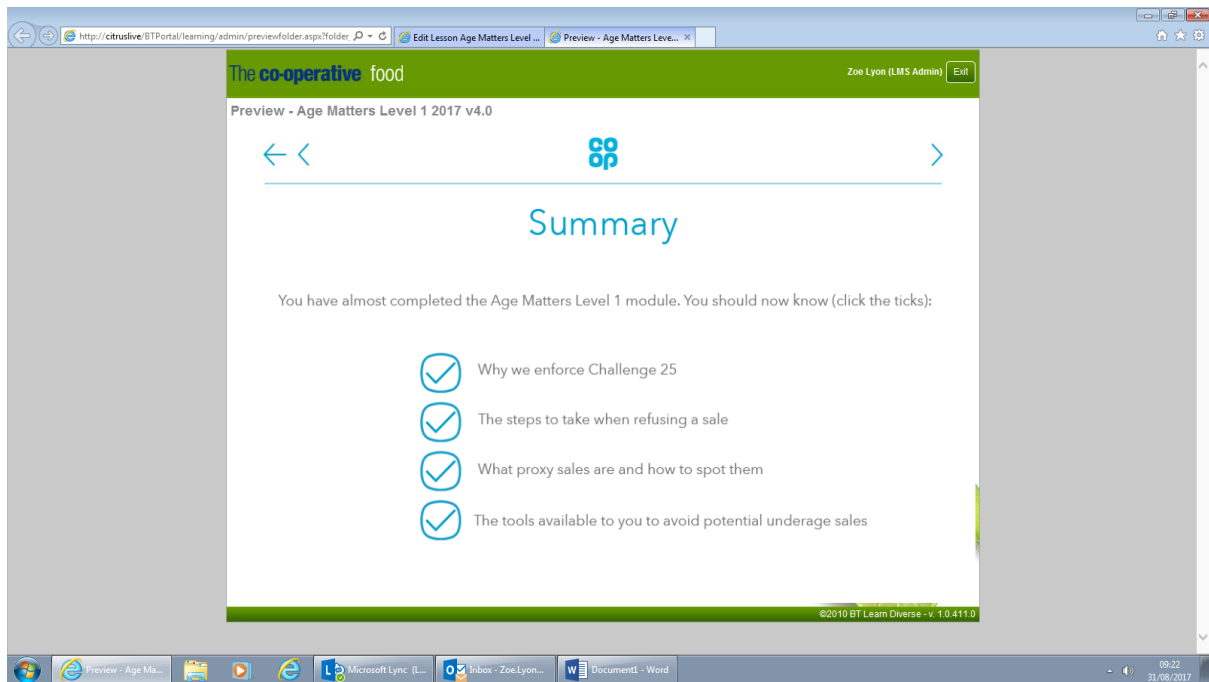
Customer Facing Till Screen

Challenge 25 badge

Age restricted Point of Sale

CITRUS Policies





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