



Home Office

Alcohol Licensing – Age Verification

Government consultation

This consultation begins on 24 January 2024

This consultation ends on 30 March 2024

About this consultation

- To:** This is a public consultation. Any member of the public can respond. The consultation covers England and Wales where these proposals apply.
- Duration:** For 8 weeks from 24/01/24 to 30/03/24
- Enquiries (including requests for the paper in an alternative format) to:** Alcohol team – age verification consultation
5th Floor, Fry Building
Home Office
2 Marsham Street, SW1P 4DF
Email: alcohollicensingconsultations@homeoffice.gov.uk
- How to respond:** Responses should be submitted online through the GOV.UK website.
- Response paper:** A response to this consultation exercise will be published in due course on the GOV.UK website.
- All responses will be treated as public, unless stated otherwise.

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Executive summary

The Licensing Act 2003 ('the Act') covers the retail sale and supply of alcohol in England and Wales. The Act requires Licensing Authorities to uphold the following four objectives: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The fourth objective, which is the main focus of this consultation, means that alcohol must not be sold to someone under 18.

Digital identities and age assurance technology

Secondary legislation made under the Act specifies that if anyone appears to be under 18, in order to buy alcohol they need to produce identification which bears their photograph, date of birth and either a holographic mark or ultraviolet feature¹. In practice this means that currently only physical identity documents are permitted. As the use of digital identities² is becoming increasingly widespread and more individuals look to prove things about themselves digitally, there is an increasing disparity between what existing licensing legislation allows and the forms of identity that people increasingly wish to use.

Technology, including age estimation technology, exists that could help to establish if an individual is of an age that allows them to legally purchase particular products. However, the current wording of the Act does not allow age assurance technology to play a part in the age verification process for alcohol sales. A person must make the decision whether an individual is old enough to purchase alcohol, using physical identification.

Discussions with stakeholders in the hospitality, retail and licensing sectors, as well as policing, suggest that there could be considerable support for the use of digital identities as well as technology to help to establish if an individual is old enough to purchase alcohol.

The government is also keen to enable the secure and appropriate use of new technologies that can improve the experience of consumers and retailers. We are therefore consulting on whether to amend the Act to allow individuals to utilise digital identities and age assurance technology to play a role in proving their age when purchasing alcohol. We also ask for your views on a range of related points which set out how this could work in practice and how legislation may need to change.

The government is committed to enabling the widespread use of trusted digital identity solutions across the UK economy as a matter of personal choice. The Department for Science, Innovation and Technology (DSIT) is creating a framework of standards and governance, underpinned by legislation to provide this trust, so that people and businesses know what a good and secure digital identity looks like. This will allow people to choose to prove their identity digitally with ease and confidence, as an alternative to

¹ The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014

² A digital identity is a digital representation of someone's identity information, including name and age, as well as biometric information on request.

using the physical documents we are more familiar with. Digital identities will not be compulsory, but the government is working to ensure that digital identities are inclusive and accessible for all those who choose to use them.

Regulation of age-estimation and technology that could assist with age-verification is less developed. Any change to the Licensing Act which would allow its use in alcohol sales can only take place once suitable government approved national standards are in place.

There are a number of other important considerations. Liability for complying with licensing conditions, including age-verification, sits with the licence holder. Additional players could be involved, for example the providers of technology, if licence holders were able to use technology to help with that process. We do not propose that government should be prescriptive about liability and believe that this should be left to organisations to determine through contractual arrangements. Inclusion is another. Any use will need to comply with equalities legislation. Another consideration is privacy. Any use will need to comply with data protection legislation. The Data Protection Act 2018 sets out the data protection framework in the United Kingdom and the enforcement tools that the Information Commissioner can use to regulate organisations that process personal data. Government standards for digital identity service providers, set out in the trust framework, make clear that participants in the digital verification services ecosystem must comply with data protection legislation.

Remote Sales

We are also considering whether the Act adequately covers transactions that do not take place face-to-face. Since the Act came into effect in 2005, the way in which people purchase alcohol has changed, with sales increasingly being made online, as well as in many other settings which do not initially involve face-to-face contact - for example supermarket self-checkout tills and self-scanners, and table service at restaurants.

Currently the Act only sets out a requirement to verify age at the point of sale or appropriation to a contract (for example, the warehouse from which goods are picked and dispatched), not at the point of delivery. We are reviewing whether this is still right or whether there should be additional age checks at the point of delivery and / or service. We need to understand to what extent there may be a problem of alcohol being handed over to minors and / or to people who are already intoxicated.

We are aware of restrictions relating to the delivery of certain age-restricted products, specifically bladed articles. If retailers wish to dispatch them to a residential address, they need to enter into an agreement with a delivery company and that company must ensure that the package is not handed to a person who is under 18. It is also illegal to send bladed articles to a locker. We need to understand whether this model – or a similar model - should apply to alcohol sales.

We are therefore calling for evidence that will help us understand to what extent there may be a problem of alcohol being delivered to minors and / or people who are already

intoxicated, as well as proxy sales whereby someone orders on behalf of an individual who is under 18. We would welcome the views and experience of all respondents and would be particularly interested to receive the findings of more formal evidence and research that has been carried out.

We are also consulting on whether to amend the Act, so that it is explicit about when age verification must take place, or whether this can be adequately covered in an amendment to the Section 182 guidance which accompanies the Act.

Introduction

This paper sets out for consultation whether to amend the Licensing Act so as to allow digital identities and age assurance technology to play a role in age verification for alcohol sales in England and Wales, and when age verification should take place when sales do not take place face-to-face.

The consultation and call for evidence are aimed at the hospitality sector, local licensing authorities, the police, licensed premises, members of the public, technology companies which operate in this area, and other interested parties in England and Wales where these proposals would apply.

An Impact Assessment is attached. A lack of quantitative data has prohibited the Home Office's ability to estimate the potential quantitative costs and benefits to businesses, charities or the voluntary sector. Instead, a narrative approach has been adopted to discuss potential costs and benefits. Comments on the Impact Assessment are very welcome.

Copies of the consultation paper are being sent to:

- Local Government Association
- National Association of Licensing Enforcement Officers
- Institute of Licensing
- National Police Chiefs' Council
- Association of Police and Crime Commissioners
- Office of the Information Commissioner
- Trading Standards
- Night Time Industries Association
- UK Hospitality
- British Beer and Pub Association
- Association of Convenience Stores
- Wine and Spirits Trade Association
- Alcohol Health Alliance
- Alcohol Change UK
- Institute of Alcohol Studies
- Drinkaware
- Portman Group
- Proof of Age Standards Scheme
- Community Alcohol Partnerships
- Residents associations

However, this list is not meant to be exhaustive or exclusive. Responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

The proposals

We ask that you consider options 1 to 3, and separately consider options 4 to 6.

Digital Identities & Technology

1. Option 1 – Do nothing: only traditional identity documents which contain a holographic image or ultraviolet feature are acceptable for age verification for alcohol sales.
2. Option 2 – Alongside traditional identity documents, also allow digital identities to be used for age verification for alcohol sales. *And / or*
3. Option 3 – Alongside traditional identity documents, also allow age estimation and other technology to be used for age verification for alcohol sales.

Remote Sales

4. Option 4: Do nothing. Age verification checks, checks to establish that an individual is not already intoxicated, and checks that a sale is not a proxy sale must take place at the point of sale/appropriation to a contract.
5. Option 5: Amend the **Licensing Act** so that age verification checks, checks to establish that an individual is not already intoxicated, and checks that a sale is not a proxy sale must take place at the point of sale/appropriation to a contract and also at the point of delivery/service. *Or*
6. Option 6 – Amend the **Section 182 guidance** which accompanies the Licensing Act to advise that age verification checks, checks to establish that an individual is not already intoxicated and checks that a sale is not a proxy sale must take place at the point of sale/appropriation to a contract and should additionally take place at the point of the point of delivery/service.

Questionnaire

Digital identity / technology

The government is committed to enabling the widespread use of trusted digital identity solutions across the UK economy as a matter of personal choice. The Department for Science, Innovation and Technology (DSIT) is creating a framework of standards and governance, underpinned by legislation to provide this trust, so that people and businesses know what a good and secure digital identity looks like. This will allow people to choose to prove their identity digitally with ease and confidence, as an alternative to using the physical documents we are more familiar with. Digital identities will not be compulsory, but DSIT is working to ensure that digital identities are inclusive and accessible for all those who choose to use them. DSIT is taking a technology-neutral, standards-based approach that will support innovation in this new market. The Government has no plans to mandate the use of digital identities or a national ID card.

DSIT has published the UK digital identity and attributes trust framework³, which is a set of rules that digital identity providers can be certified against to show users that their services are trustworthy. The framework contains rules on privacy and data protection, fraud management, cyber and information security, and ensuring that products and services are inclusive. The trust framework will help organisations check identities and share attributes in a trusted and consistent way, so that a digital identity created for one purpose can be reused for another, when someone wishes to do so. The trust framework is not mandatory for organisations to follow. However, certification against the trust framework will provide evidence that organisations are meeting high standards and can be trusted. We are considering aligning any amendment to the Licensing Act to reflect current and future digital identity provisions.

Regulation of age-estimation and other technology that could assist with age-verification is less developed. Any change to the Licensing Act which would allow its use in alcohol sales can only take place once suitable government approved national standards are in place.

There are a number of other important considerations. Liability for complying with licensing conditions, including age-verification, sits with the licence holder. Additional players could be involved, for example the providers of technology, if licence holders were able to use technology to help with that process. We do not propose that government should be prescriptive about liability and believe that this should be left to organisations to determine through contractual arrangements. Inclusion is another. Any use will need to comply with equalities legislation. Another consideration is privacy. Any use will need to comply with data protection legislation. The Data Protection Act 2018 sets out the data protection framework in the United Kingdom and the enforcement tools that the Information Commissioner can use to regulate organisations that process personal data. The trust framework makes clear that participants in the digital verification services ecosystem must comply with data protection legislation and we are not proposing any additional measures.

³ UK digital identity and attributes trust framework beta version (0.3) - GOV.UK (www.gov.uk)

Q1. Do you agree or disagree that the Licensing Act 2003 should be amended to allow customers wishing to purchase alcohol to present a digital identity certified against the UK digital identity and attributes trust framework when needing to confirm their age?

Agree	Disagree	Neither agree nor disagree

Q2. If you answered ‘agree’ to question 1, to help us understand the extent of interest in the use of digital identity, which of the following settings do you think this should apply to? Please tick all that apply and use the free text box at the end of the questionnaire to explain any concerns you may have about use in particular settings.

	YES	NO
All settings		
Off-licences		
Supermarkets		
Convenience stores		
Restaurants		
Pubs and bars		
Clubs		
Online retailers		
Other – please specify		

Q3. Do you agree or disagree that the Licensing Act 2003 should be amended so as to allow age estimation and other age assurance technology, certified against government-set standards, to assist with age verification?

Agree	Disagree	Neither agree nor disagree

Q4. If you answered ‘agree’ to Q3, to help us understand the extent of interest in the use of age assurance technology, which of the following settings do you think this should apply to? Please tick all that apply and use the free text box at the end of the questionnaire to explain any concerns you may have about use in particular settings.

	YES	NO
All settings		
Off-licences		
Supermarkets		
Convenience stores		
Restaurants		
Pubs and bars		
Clubs		
Online retailers		
Other – please specify		

Q5. Currently, age estimation technology exists whereby if the technology detects that an individual looks younger than the age threshold that has been set, the system flags that another person needs to verify the age of that individual. If allowed, what minimum age threshold do you think age estimation and other technology should be set at? Please tick one.

18	
21	
25	
Should not be prescribed	
Other age over 18 (please specify)	

Q6. Do you agree or disagree that technology should only assist in age verification decision making? In other words, must a person always make the final decision for alcohol sales where technology suggests that an individual may be underage?

Agree	Disagree	Neither agree nor disagree

Q7. If digital identities and age assurance technology is used to assist with age verification for alcohol sales, what impact do you think this would have on licensing objectives? Please tick one box for each licensing objective.

Licensing objective	Positive impact	No impact	Negative impact	Don't know
Prevention of crime and disorder				
Public safety				
Prevention of public nuisance				
Protection of children from harm				

Q8. Do you agree or disagree that any provider of digital identity services used for age verification for alcohol sales should be certified against government standards contained within the UK digital identity and attributes trust framework?

Agree	Disagree	Neither agree nor disagree

Q9. Part 7 of the Licensing Act 2003 sets out licensing offences that are committed by a person in the context of alcohol sales. Which of the following best describes how you think responsibility for these offences should be defined in the Licensing Act if digital identities and other technology are allowed? Please tick one.

Do not amend the Licensing Act, meaning that offences are committed by the licence holder. Any liability on the part of the technology provider (for example errors) would be covered via standard commercial contractual arrangements.	
Add clauses to the Licensing Act which place additional responsibility on the provider of faulty or inaccurate equipment or technology.	
Add clauses to the Licensing Act which require licence holders to be responsible for ensuring that equipment or technology is accurate and fully functioning.	
Other (please specify)	

Q10. If an individual works in a premises that allows digital identities alongside traditional identity documents, do you agree that there should be a requirement for staff to receive training?

Agree	Disagree	Neither agree nor disagree

Q11. If an individual works in a premises that allows age assurance technology alongside traditional identity documents, do you agree that there should be a requirement for staff to receive training?

Agree	Disagree	Neither agree nor disagree

Q12. Do you agree or disagree that there should be a requirement for licensing officers to receive training in digital identities?

Agree	Disagree	Neither agree nor disagree

Q13. Do you agree or disagree that there should be a requirement for licensing officers to receive training in age assurance technology?

Agree	Disagree	Neither agree nor disagree

Remote sales

To assist with answering questions about remote sales, please read the following extracts from the Licensing Act and its accompanying guidance.

The Licensing Act (Mandatory Licensing Conditions) (Amendment) Order 2014⁴ states:

3.(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

⁴ The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014 (legislation.gov.uk)

(b) an ultraviolet feature.

Section 151 of the Licensing Act further states⁵:

(1) A person who works on relevant premises in any capacity, whether paid or unpaid, commits an offence if he knowingly delivers to an individual aged under 18—

(a) alcohol sold on the premises, or

(b) alcohol supplied on the premises by or on behalf of a club to or to the order of a member of the club.

(2) A person to whom subsection (3) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol sold on relevant premises.

(3) This subsection applies to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the delivery of the alcohol.

(4) A person to whom subsection (5) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol supplied on relevant premises by or on behalf of a club to or to the order of a member of the club.

(5) This subsection applies—

(a) to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the supply, and

(b) to any member or officer of the club who at the time of the supply in question is present on the premises in a capacity which enables him to prevent the supply.

(6) Subsections (1), (2) and (4) do not apply where—

(a) the alcohol is delivered at a place where the buyer or, as the case may be, person supplied lives or works, or

(b) the individual aged under 18 works on the relevant premises in a capacity, whether paid or unpaid, which involves the delivery of alcohol, or

(c) the alcohol is sold or supplied for consumption on the relevant premises.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Additionally, the Licensing Act states:

190- Location of sales⁶

(1) This section applies where the place where a contract for the sale of alcohol is made is different from the place where the alcohol is appropriated to the contract.

(2) For the purposes of this Act the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract.

And the accompanying explanatory notes⁷ state:

285. Where the place where a sale of alcohol takes place is different from the place from which the alcohol is supplied, the sale is treated as having happened at the place from which the alcohol is appropriated to the contract. For example, when

⁵ Licensing Act 2003 (legislation.gov.uk)

⁶ Licensing Act 2003 (legislation.gov.uk)

⁷ Licensing Act 2003 - Explanatory Notes (legislation.gov.uk)

alcohol is bought via mail order or a telephone call centre, the sale will, for the purposes of the Act, have taken place at the warehouse from which the alcohol would be delivered, and not the call centre. The requirement for a premises licence will therefore apply to the warehouse rather than the call centre.

Section 182 guidance states:

3.8 The sale by retail of alcohol is a licensable activity and may only be carried out in accordance with an authorisation under the 2003 Act. Therefore, a person cannot sell alcohol from a vehicle or moveable structure at a series of different locations (e.g. house to house), unless there is a premises licence in respect of the vehicle or moveable structure at each location at which a sale of alcohol is made in, on or from it.

3.9 The place where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). This position can arise when sales are made online, by telephone, or mail order. Section 190 of the 2003 Act provides that the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. It will be the premises at this location which need to be licensed; for example, a call centre receiving orders for alcohol would not need a licence but the warehouse where the alcohol is stored and specifically selected for, and despatched to, the purchaser would need to be licensed. These licensed premises will, as such, be subject to conditions including the times of day during which alcohol may be sold. The premises licence will also be subject to the mandatory licence conditions.

3.10 Persons who run premises providing ‘alcohol delivery services’ should notify the relevant licensing authority that they are operating such a service in their operating schedule. This ensures that the licensing authority can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, may consider contacting their licensing authority for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required.

Q14. Do you agree or disagree that the Licensing Act 2003 adequately covers age verification when alcohol sales do not take place face-to-face? Please consider remote transactions (telephone and online) as well as other occasions when a person may not initially be directly involved in the transaction, for example at supermarket self-checkout tills, when a self-scanner is used and when ordering from your table at a pub or restaurant.

Agree	Disagree	Neither agree nor disagree

Q15. If you disagree that the Licensing Act 2003 adequately covers age verification when alcohol sales do not take place face-to-face, what would be the best way to address this?

	YES	NO
Amend the Licensing Act 2003		
Amend the Section 182 guidance which accompanies the Act		
Industry produced guidance		
All of the above		
Other		

Q16. If you disagree that the Licensing Act 2003 adequately covers age verification when alcohol sales do not take place face-to-face and agree that legislation and / or guidance should be amended, should this apply to all delivery models? Please tick all those to which you think this should apply.

	Additional information	Yes	No
All delivery models			
Delivery takes place next day or later	Planned delivery using delivery drivers who are employed by the company which holds the alcohol licence.		
Delivery takes place next day or later	Planned delivery using delivery drivers who are <u>not</u> employed by the company which holds the alcohol licence.		
Fast delivery service	Delivery usually within an hour of ordering. Customer orders via an app. Business model is to sell and deliver alcohol via that app.		
Fast delivery service	Delivery usually within an hour of ordering. Customer orders via an app. The app does not have an associated alcohol licence and the business model is delivery only.		
Restaurants, pubs, bars and clubs offering direct order / delivery service	Driver is an employee of the licensed premises.		

Restaurants, pubs, bars and clubs offering direct order / delivery service	Third party delivery driver.		
E-commerce – selling from their own stock	Not including licensed specialist alcohol merchants. Driver is an employee of the licensed premises.		
E-commerce – selling from their own stock	Not including licensed specialist alcohol merchants. Third party driver.		
Dropship	E-commerce that does not have own stock and supplies via a third party.		
Other – please specify			

Q17. Do you agree or disagree that the Licensing Act 2003 should be amended to specify that it is an offence to deliver to/serve alcohol to someone who is already intoxicated?

Agree	Disagree	Neither agree nor disagree

Q18. Do you agree that the provision of Primary Authority* would be beneficial to changes made to relevant sections of the Licensing Act?

Agree	Disagree	Neither agree nor disagree

***Primary Authority** is a scheme for businesses to receive assured and tailored advice (known as Primary Authority advice) on meeting environmental health, trading standards or fire safety regulations through a single point of contact. This enables businesses to invest with confidence in products, practices, and procedures, knowing that the resources they devote to compliance are well spent and it helps businesses get it right first time, driving up compliance.

The scheme is based on the formation of legal “primary authority” partnerships between businesses and individual local authorities and/or fire rescue authorities. It is used successfully across the majority of regulations where Trading Standards, Environmental Health and Fire & Rescue services have an enforcement role. It enables businesses to receive customised advice from the primary authority in relation to complying with legislation that is within scope of the scheme.

The scheme is governed by the Regulatory Enforcement and Sanctions Act 2008 (RESA) and provides greater regulatory consistency and certainty for businesses that operate across multiple local authority areas.

The primary authority scheme enables businesses to receive primary authority advice on provisions with the regulations which are enforced by local authorities and Fire & Rescue Services. It is one of the principal ways government makes regulation easier and simpler for businesses to understand and follow. It does this primarily by enabling assured advice to be provided through one local authority/FRS as a single point of contact. This reduces costs for businesses in complying with the law (as they can get it right first time) and encourages more consistent enforcement, as local enforcers must take account of any primary authority advice given to a business.

This model has been successful in other areas of regulation, with over 100,000 businesses signed up to primary authority partnerships and benefitting from assured advice since the scheme started in 2009.

Primary Authority is already in scope for certain aspects of age restricted products, including alcohol sales, which many businesses utilise and find beneficial. Extending the scope of the scheme could provide local authorities with the opportunity to provide further regulatory assistance within the alcohol sector, helping them to improve sector compliance, and build better relationships with businesses.

Q19. Please use the space provided below to tell us any comments you have on any matter covered in this consultation. If your submission is lengthy, please submit your answers to questions 1-18 via this form and email additional information and data to: alcohollicensingconsultations@homeoffice.gov.uk

Thank you for participating in this consultation.

About you

Please use this section to tell us about yourself

Full name (optional)	
Job title or capacity in which you are responding to this consultation exercise (for example, member of the public)	
Date	
Company name/organisation (if applicable)	
Address (optional)	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Email address to which the acknowledgement should be sent	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details and how to respond

Please submit your response online via the GOV.UK website by 30 March 2024.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available online at [web address]

Alternative format versions of this publication can be requested from [email/telephone number of sponsoring policy division].

Publication of response

A paper summarising the responses to this consultation will be published in due course. The response paper will be available online at Gov.UK.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality

disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

The Home Office will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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Any enquiries regarding this publication should be sent to us at:

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