

Licensing Act 2003: Age verification and remote sales consultation responses

INTRODUCTION

Between 24 January and 30 March 2024, the previous Government ran a consultation on whether digital identities and other age assurance technology, including age estimation technology, should be allowed to play a role in determining whether someone is old enough to purchase alcohol. Digital identities are technology that enable people to verify information about themselves, such as their age or identity, for example via app-based products. Age estimation technology allows retailers to estimate people's age, for example by scanning their face to determine whether they are over the age of 18.

Currently, if anyone appears to be under 18 and is seeking to purchase alcohol, they need to produce identification which bears their photograph, date of birth and either a holographic mark or ultraviolet feature. In practice, this means that individuals are only permitted to use physical identity documents (e.g. passports and driving licences) to prove their age; digital identities are not accepted by retailers, and retailers are not permitted to utilise digital identities or other age assurance technology as part of the age verification process.

Discussions with stakeholders in the hospitality, retail and licensing sectors, as well as policing, indicated there was considerable interest in allowing the use of digital identities, and potentially other technology, to help to establish if an individual is old enough to purchase alcohol. This consultation therefore sought to determine if updates need to be made to the Licensing Act 2003 to allow new technology and digital IDs to be utilised.

The consultation also considered age verification in the context of remote sales when alcohol is not purchased 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. Whilst age checks are currently required at the point of sale, they are not required at the point of delivery; this consultation therefore also looked at whether age checks at the point of delivery should be introduced. It also sought views on whether there should be mandatory checks at the point of delivery to determine whether someone is already intoxicated.

The consultation looked at the impact these potential changes would have on the four objectives of the Licensing Act 2003 (the prevention of crime and disorder; the protection of children from harm; public safety; and the prevention of public nuisance).

A total of 251 complete responses were received from licensing authorities, the alcohol and hospitality industry, policing, trading standards, technology companies, delivery partners, civil society organisations, and members of the public.

SUMMARY OF RESPONSES

Digital Identities

A majority of respondents (72%) indicated that the Licensing Act 2003 **should** be amended to allow the use of digital identities as proof of age in the sale of alcohol, and that digital identities should be permitted in all retail settings - for example, supermarkets, off-licences, restaurants and night-time economy venues. We asked whether respondents thought the use of digital identities would lead to a “positive impact”, “no impact”, “negative impact” (or “don’t know”) in relation to the four licensing objectives set out in the Licensing Act 2003 – in each case, most respondents stated that they thought these changes would have a positive impact for each objective. Those that disagreed raised concerns about data protection and the potential for digital identities to be hacked or faked.

Respondents had differing views relating to liability associated with allowing the sale of alcohol to children. To address this, some respondents (36%) said that clauses should be added to the Licensing Act to place additional responsibility on the provider of faulty or inaccurate equipment or technology. 26% of respondents said that the Licensing Act should not be amended, meaning that offences would be committed by the licence holder and any liability on the part of the technology provider would be covered via standard commercial contractual arrangements. 22% said the Licensing Act should be amended to place additional responsibility on the licence holder to ensure that equipment or technology is accurate and fully functioning. 16% of respondents selected the “Other” option; some felt licence holders should be responsible for ensuring that equipment or technology is accurate and fully functioning as well as placing additional responsibility on the provider of faulty or inaccurate equipment or technology.

The majority of respondents (82%) agreed that providers of digital identity services used for age verification for alcohol sales should be certified against government-approved standards contained within the UK digital identity and attributes trust framework¹. This trust framework is a set of rules that providers of digital identity and attribute services must meet in order to demonstrate they meet requirements for secure, trustworthy services. A minority of respondents indicated that other schemes, such as the Proof of Age Standards Scheme, would provide a better way of certifying digital identities.

Age Assurance Technology

56% of respondents indicated that the Licensing Act 2003 **should** be amended to allow the use of other age assurance technologies as proof of age as part of the process of the sale of alcohol, and that it should be permitted in all settings.

The majority of respondents (68%) agreed that age assurance technology such as facial age estimation should only *assist* in age verification decision making. In other words, this meant that 68% of respondents thought that a person should always make the final decision to allow the sale of alcohol to an individual where the technology suggests that they may be underage. Those that disagreed with allowing age assurance technology to be used as part of the process of the sale of alcohol raised

¹ [UK digital identity and attributes trust framework beta version \(0.3\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/uk-digital-identity-and-attributes-trust-framework-beta-version-0-3)

concerns around the accuracy of the technology and the impact this would have on protected groups, as well as implications for privacy.

Remote Sales

There were mixed views around whether the Licensing Act effectively addresses issues relating to age verification when alcohol is sold remotely. 49% of respondents thought that the Licensing Act does not adequately cover age verification when alcohol sales take place remotely. 31% thought the legislation does adequately cover these sales whilst 21% neither agreed nor disagreed.

The options to address remote sales of alcohol were to amend the Licensing Act, amend the guidance issued under Section 182 of the Licensing Act, allow industry to produce its own guidance for retailers to adhere to, all of the aforementioned measures or “Other”. 42% of respondents thought that all of the suggested measures should be taken forward. Those that disagreed with amending the Licensing Act raised concerns about the negative impact that introducing further checks would have on different delivery models (e.g. models that rely on the ability to leave goods in a safe place for the customer to collect).

It is already the case that it is an offence to sell or attempt to sell alcohol to a person who is drunk or allows alcohol to be sold to such a person. The majority of respondents (58%) agreed that the Licensing Act should also be amended so that would also be an offence to serve or deliver to someone who is already intoxicated, although there were concerns about how this would work in practice.

NEXT STEPS

Digital Identities

The Government is keen to enable the secure and appropriate use of new technologies that can improve the experience of consumers and retailers. The majority of respondents to this consultation were in favour of amending secondary legislation made under the Licensing Act 2003 to allow the use of digital identities as proof of age in the sale of alcohol. The majority also agreed that providers of digital identity services used for age verification for alcohol sales should be certified against government-approved standards set out in the UK Digital Identity and Attributes Trust Framework.

The Data (Use and Access) Bill² was recently introduced to Parliament and contains measures to ensure that the UK Digital Identity and Attributes Trust Framework is placed on a statutory footing. When the Bill achieves Royal Assent, we will bring forward a statutory instrument to add digital identities - which appear on a public register on GOV.UK of services which have been independently certified against the trust framework - as acceptable proof of age in the sale of alcohol alongside traditional identification documents with a holographic mark or ultraviolet feature. This means that in any circumstance where a person may currently be required to provide a suitable physical form of ID for age verification purposes for the sale of alcohol, they will also be permitted to provide a digital identity, certified against the trust framework, to prove their age.

² <https://bills.parliament.uk/bills/3825/>

Prior to introducing this change, we will work across Government to understand any other requirements that may be necessary to allow digital identities to be used for the sale of alcohol, including addressing concerns raised within the consultation.

Age Assurance Technology

A small majority of respondents to this consultation were in favour of allowing the use of age estimation and other age assurance technology as proof of age in the sale of alcohol and were of the view that this should be permitted in all settings.

However, the Government has not yet introduced a framework covering all age assurance technology, with age estimation technology outside the scope of the trust framework underpinned by the Data Bill. Accordingly, the Government does not intend at this time to allow the use of age estimation technology as part of the age verification process for alcohol sales.

As such, businesses are not permitted to utilise age assurance technology, even for testing purposes.

Remote Sales

There were mixed views relating to whether the Licensing Act effectively addresses issues relating to age verification when alcohol is sold remotely. The consultation has also raised a number of issues that need to be carefully worked through.

Accordingly, the Government notes that this is an area that requires further consideration. We will undertake further work in this area in due course. At this point in time, we will not be making any changes to the Licensing Act 2003.

RESPONSES TO QUESTIONS

Digital Identities

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 – 72%
- Disagree – 22%
- Neither agree nor disagree – 6%

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.

- All settings – 89%
- Off-licences – 8%
- Supermarkets – 10%
- Convenience stores – 8%
- Restaurants – 8%
- Pubs and bars – 7%
- Clubs – 7%
- Online retailers – 8%
- Other – please specify – 6%

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	56%	22%	12%	9%
Public safety	46%	31%	12%	11%
Prevention of public nuisance	45%	30%	13%	12%
Protection of children from harm	62%	16%	12%	10%

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 – 82%
- Disagree – 6%
- Neither agree nor disagree – 13%

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. – 26%
- Add clauses to the Licensing Act which places additional responsibility on the provider of faulty or inaccurate equipment or technology. – 36%
- Add clauses to the Licensing Act which require licence holders to be responsible for ensuring that equipment or technology is accurate and fully functioning. – 22%
- Other (please specify) – 16%

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 – 84%
- Disagree – 6%
- Neither agree nor disagree – 10%

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

- Agree – 81%
- Disagree – 7%
- Neither agree nor disagree – 12%

Age Assurance Technology

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 – 56%
- Disagree – 35%
- Neither agree nor disagree – 9%

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.

- All settings – 80%
- Off-licences – 10%
- Supermarkets – 14%
- Convenience stores – 10%
- Restaurants – 7%
- Pubs and bars – 6%
- Clubs – 7%
- Online retailers – 9%
- Other – please specify – 10%

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?

- 18 – 16%
- 21 – 21%
- 25 – 35%
- Should not be prescribed – 20%
- Other age over 18 (please specify) – 7%

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 – 68%
- Disagree – 20%
- Neither agree nor disagree – 13%

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 – 81%
- Disagree – 8%
- Neither agree nor disagree – 12%

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

- Agree – 80%
- Disagree – 8%
- Neither agree nor disagree – 13%

Remote Sales

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 – 31%
- Disagree – 49%
- Neither agree nor disagree – 21%

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?

- Amend the Licensing Act 2003 – 35%
- Amend the Section 182 guidance which accompanies the Act – 9%

- Industry produced guidance – 7%
- All of the above – 42%
- Other – 17%

Q16. You've stated 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?

- All delivery models – 92%
- Delivery takes place next day or later (using delivery workers who are employed by the company which holds the alcohol licence) – 6%
- Delivery takes place next day or later (using delivery workers who are not employed by the company which holds the alcohol licence) – 8%
- Fast delivery service (business model is to see and deliver alcohol via an app) – 9%
- Fast delivery service (the app does not have an associated alcohol licence and the business model is delivery only) – 9%
- Restaurants, pubs, bars and clubs offering direct order / delivery service (delivery worker is an employee of the licenced premises) – 7%
- Restaurants, pubs, bars and clubs offering direct order / delivery service (third party delivery worker) – 9%
- E-commerce (selling from their own stock with a third party delivery worker) – 9%
- Dropship (e-commerce that does not have own stock and supplies via a third party) – 8%
- Other – please specify – 2%

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 – 58%
- Disagree – 21%
- Neither agree nor disagree – 21%

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

- Agree – 55%
- Disagree – 12%
- Neither agree nor disagree – 33%