



AGE VERIFICATION REGULATORY SANDBOX



Guidance for Responsible Authorities

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Expert Panel – Age
Restrictions



Role of Responsible Authorities

- All applications for a trial MUST be supported by the local police, licensing authority and trading standards
 - Applications without evidence of that support (which can be informal at the application stage) will likely be rejected
 - A formal written agreement (for which there will be a template provided) must be in place before an approved trial can commence
 - Consideration of Enforcement Policies and Public Interest Tests, which are a matter for the judgement of Responsible Authorities and their partners, such as the Crown Prosecution Service
 - Responsible Authorities can charge for their services (they don't have to) where they have appropriate revenue raising powers (none specific are granted for this trial)
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Trial Control

- Local Responsible Bodies are in control of:
 - What gets trialed
 - How it gets trialed
 - Who trials it
 - Where it is trialed
 - When it is trialed
 - How long the trial will proceed
 - Where a trial should be paused or suspended
- Critical that local licensing authority, police and trading standards authority work closely together to oversee the trials in their area

Policy Framework

Government Policy towards Digital ID

Implications for the Mandatory Licensing Conditions

Understanding of Technological Solutions

Promotion of the Licensing Objectives – particularly the Protection of Children from Harm

Regulatory Sandbox

Testing

- allow live, time-bound testing of innovations under controlled conditions, with the approval of government and regulators

Investment

- attract commercially attractive proposals that could result in return on investment in testing or trialing the proposed product in a real world environment

Innovation

- Helps to bring down cost of innovation, and reduces barriers to entry

Policy outcome

- approval of a test or trial does not imply, even if successful, legislative change or improvement, it will be taken into account alongside the views of all stakeholders in usual policy development process



Mandatory Licensing Conditions

An Age Verification 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
- (b) an **ultraviolet** feature.

Every **supply** of alcohol under the premises licence must be **made or authorised** by a **person** who holds a personal licence.

Enforcement of Mandatory Conditions

- Licensing Act 2003
- Unauthorised licensable activities – s.136(1)
 - (1) A person commits an offence if—
 - a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
 - b) he knowingly allows a licensable activity to be so carried on.
- Regulatory Sandbox is not an ‘authorisation’ for purposes of s.136(1).
- No ‘Immunity from Prosecution’ (s.71 SOCPA 2005 – not applicable)
- No ‘Relief from Sanctions’ (s.146 – 151 offences would still be applicable & any locally applied licensing conditions)

Public Interest Test

- Local Authorities need to balance risks in the public interest
- Home Office/OPSS have no powers to direct enforcement policy
- The law is the law, and it should be upheld – it does not follow that every offence should be prosecuted
- The reality is that officers make judgements and decisions all the time balancing the public interests
- *“the prosecution of a person who has received a promise, undertaking or representation from the police that he will not be prosecuted is capable of being an abuse of process”*. It is not necessary for the accused to show that there was bad faith on the part of the police. *R v Croydon Justices ex parte Dean [1993] Q.B. 769*

In Favour

Against

Conditions are designed for public protection

Deliberate breaches against advice from officers should be discouraged

Learning that can be gleaned from new technology

Better overall accuracy/reliability or electronic solutions

The Sandbox is intended to provide for agreements between parties to proceed on a safe basis



Decisions not to Prosecute

- Responsible Authorities should be careful, clear and precise in what they agree to
 - It will need to be committed to a written agreement between the Responsible Authorities and the trial participants before the trial will be able to proceed
 - The case law is states:
 - “... circumstances can exist where it will be an abuse of process to prosecute a man for conduct in respect of which he has been given an assurance that no prosecution will be brought. It is by no means easy to define a test for those circumstances other than to say that they must be such as to render the proposed prosecution an affront to justice.”
- R v Abu Hamza [2007] 1 Cr. App. R. 27*
- Even then, if facts come to light that were not known when the representation was made, this may justify proceeding with a prosecution despite the representation - *Killick [2012] 1 Cr App R 121*

Not an Authorisation

- It is not intended that trials under the Regulatory Sandbox are an authorization under s.136 (5) of the Licensing Act 2003
- Recommended that decisions are taken by officers rather than elected members – particularly elected members on the Licensing Committee or Panel to avoid the appearance that it may be taken as a formal authorization under the Act
- Intended to be informal, but with a knowledge that even that informal decision could have consequences for a future prosecution decision

Stopping a Trial

- Responsible Authorities can step in to stop a trial from progressing at any point (even after it has started)
- Asked to notify the Home Office if they do
- The Home Office can also step in, but have stated that they will very much rely on local responsible authorities to guide them



Charging Fees

- The Guidance makes clear that you can charge for your services if you have revenue raising powers
- No specific powers are granted
- It is a matter for local discretion whether you charge fees, which will depend on the level of involvement
- The power to charge for discretionary services for local authorities is set out in s.93 of the Local Government Act 2003 and for the Police in s.25 of the Police Act 1996 and s. 15 of the Police Reform and Social Responsibility Act 2011

Working in Partnership

Iain Corby

Executive Director

Age Verification
Providers Association

Working with the AV Industry

- The Age Verification Industry are very positive about these trials
- They will help understand the technology, processes and safeguards
- They will explain their products and provide you with information and materials to help inform and justify your decisions
- They will contribute to the evaluations
- **REMEMBER – it is in their commercial interests for these trials to be successful**

Partnership Success

1. Define what you are seeking to achieve
2. Decide what you bring to the table – what is your role, what value can you add
3. Be willing to compromise
4. Agree to the terms before you start (this is a requirement for the Sandbox)
5. Listen and **communicate**



Partner Search

- AVPA offering a partner matching service
- For innovators, licensed premises and responsible authorities
- Contact us to be put in touch with other interested parties



• **sandbox@avpassociation.com**



What can be tested?

- Technologies that enhance the likelihood of preventing young people under 18 years old from accessing alcohol
 - Technologies that help reduce violence or abuse towards workers in licensed premises when challenging young people for ID
 - Technologies that secure effective controls on delivery, click & collect or dispatch of alcohol
 - Technologies that reduce the burden on business for gaining age assurance
 - Technologies that enhance the protection of personal data of customers purchasing alcohol
 - Technologies that can reduce risks of potential disorder in queues or groups at off licensed premises
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Communications – the air and ground war

- Good local and national public affairs essential
 - Local public
 - Local leadership
 - Campaigners
 - Police
 - Shop staff
- Benefits
 - Improved compliance
 - Less conflict
 - Happier customers



Dealing with the Media

It is expected that Responsible Authorities will manage local media enquiries about trials that are approved for their area

Agree a lead media contact in one of the Responsible Authorities to field enquiries

Liaise with the Home Office over any national policy implications

The Home Office Press Office have a series of FAQ's for journalists on the trial and the policy objectives

Be open, frank and honest – this is a test. It may not show anything, it may fail, it may be the next big thing, we don't know until we test it

Supporting the Home Office/OPSS

- Keep the Home Office and OPSS up-to-date as the trial progresses
 - alcoholsandbox@homeoffice.gov.uk is a dedicated email address for any queries, updates or information
 - Contribute to the evaluation of trials
 - Participate in the Knowledge Hub information and discussions about trials, being facilitated by the Office for Product Safety & Standards
 - Raise concerns
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Knowledgehub

<https://www.khub.net/group/expert-panel-age-restrictions/group-home>

Publication of
Evaluations

“The learning from the trial will assist in identifying consumer protection issues that need to be addressed and support the development of robust national standards for technology.”



Critical to Successful Applications



LOCALLY LED



INNOVATIVE



PROPERLY
THOUGHT OUT



EFFECTIVE
EVALUATION



ADDING
KNOWLEDGE



ETHICAL



Focus of Evaluation

It **is** about:

- **IMPACT** on achieving or enhancing compliance with the Licensing Objectives
- Deployment of the Technology in a Real-World Environment

It **is not** about:

- The technology itself (i.e. is it certified or compliant)
- Commercial considerations, value for money, technological performance, load balancing, resourcing and practicalities of deployment
- General societal or community impacts

What aspects could be measured?

(Examples)

- Staff safety, welfare and protection
- Incidents triggered by challenging for proof of age
- Challenges for proof of age
- Recognition of proof of age
- False positives or false negatives
- Impact there has been on delivery or click & collect age verification
- Unintended (positive or negative) consequences
- Wait time for entry to a licensed premises
- Fail safe (or default to human verification)
- Impact on data protection and security
- Impact on complaints, customer concerns or feedback

What might be included in Evaluations?

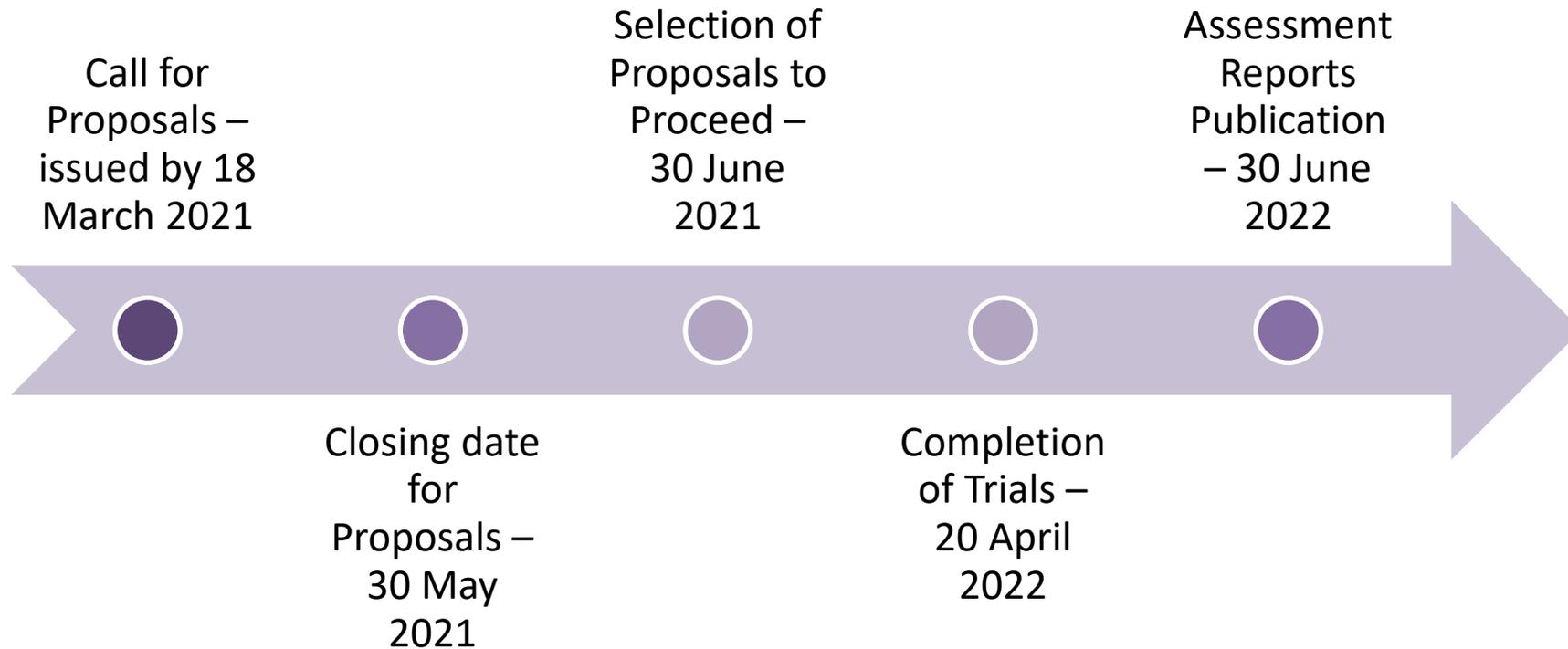
1. What impact has the trial had on compliance with the Mandatory Licensing Conditions?
2. What are the potential legal ramifications of that impact?
3. What was the background to the trial?
4. What was the hypothesis under test?
5. What was the plan/design for the trial?
6. What happened when the trial was deployed?
7. What issues arose during the trial, were any iterations of the test required?
8. What did the trial show?
9. What impact does that suggest for achieving the licensing objectives?
10. What does that mean for future use of the technology?
11. How can this be used to support the development of standards?
12. What lessons have been learned?
13. What additional research might be required?
14. What regulatory issues did the trial encounter?

What Happens at the End of the Trial?

- At the end of the trial you will know more about this than you did at the beginning
- You will know if these systems are actually working and what they do
- That may give you confidence that they are actually compliant with the mandatory conditions anyway



Timetable



There is nothing to stop proposals being completed on a quicker timescale if they can be effectively evaluated in shorter test periods.

Next Steps

1. Visit:
<https://www.gov.uk/government/publications/age-verification-technology-in-alcohol-sales-regulatory-sandbox>
2. Find Partners:
sandbox@avpassociation.com
3. Prepare Plans: info@accscheme.com
4. Gain local support:
<https://www.police.uk/> and
<https://www.tradingstandards.uk/>
5. Submit your Application:
<https://www.homeofficesurveys.homeoffice.gov.uk/s/CJ3QSB/>