The Price of Failing to Cut Out the Sale of Knives to Children

In August 2019, National Trading Standards revealed that big retailers, Asda, Tesco, Poundland and Home Bargains, were among those who failed to prevent the sale of knives to under-18s. With knife crime at its highest ever levels last year, and a quarter of all victims of knife killings being men aged between 18 and 24, it is easy to see that the cost of inadequate systems at the point of sale may go much further than the penalties that shop owners face.

What is the legal requirement?

Knives are just one of a raft of items whose sale is restricted by age. Sale of alcohol, tobacco products and fireworks are other examples.

In the case of knives, selling a knife to a person under the age of 18 is an offence contrary to Section 141A of the Criminal Justice Act 1988. With a few exceptions, this covers most knives, knife blades, razor blades, axes, or other articles which have a blade or are sharply pointed and made or adapted for use for causing injury.

Maximum penalties if convicted of the offence are, for organisations such as the retailers referred to above, an unlimited fine. For individuals, a custodial sentence may be imposed of up to 6 months.

It is a defence to the charge to prove that systems were in place to avoid the sale being made. The bar is relatively high, because the defendant needs to show that all reasonable precautions were taken, and all due diligence exercised, to avoid commission of the offence. As in many areas of regulation, it is not enough simply to devise the system. Those up before the courts need to show that the system was also properly implemented and policed.

Areas to be considered as part of an effective system might therefore include:

- Introducing a “Challenge 25” policy in store, in other words asking those who may look under the age of 25 to prove that they are old enough to buy the age restricted product.
- If the technology allows, introducing till prompts or the like to remind those at the point of sale to invoke the policy.

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- Training staff effectively in what the policy requires. That should include regular refresher training.
- Keeping records of what forms of identification were provided when the customer was asked to provide proof of age, and the outcome that had on the sale. This enables the retailer to conduct periodical checks to ensure that the system is effective, and provides a source of evidence in the event of an investigation.
- Supervising staff properly, and taking action to ensure that the policy is adhered to.

Trading standards investigations

The police or Trading Standards departments usually investigate by conducting “test purchases”. In other words, they send a volunteer under the age of 18 into a shop to see if they are sold a knife or other age restricted product. In the sample referred to in the introduction, 2,231 test purchases were carried out, and on 344 of those occasions a child was sold a knife.

Lord Toby Harris, Chairman of National Trading Standards, recognised that implementing and maintaining effective systems to prevent such sales is hard, but went on to say, “Let's be clear - it's illegal to sell a knife to a child. Our tests show that it's still too easy for a child to buy a knife."

Those whose staff sell a knife can be expected to be asked to make representations under caution. This exercise should be approached with some care, and there is some merit in seeking early legal advice. The staff member making the sale may also become a suspect in the investigation, and there is therefore a need also to manage the potential for conflict between the interests of the employer and employee.

What else is on the horizon?

The Offensive Weapons Act 2019 is not yet fully in force but, when it comes, it will bring with it a host of new requirements and associated criminal offences. Those include stopping knives being sent to residential addresses after being bought online, unless the seller has systems in place to ensure that the articles will not be delivered to under-18s. The prohibitions on possession of knives and offences of threatening with offensive weapons will be updated as well, and the police will be able to issue knife crime prevention orders.

In the meantime, retailers can expect Trading Standards departments to be continuing to conduct spot checks on the sale of knives and other age restricted items.

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