

Review of Alcohol Delivery Reforms – Stage 1

Supplementary Report

May 2023

Executive Summary

Background

In July 2021 reforms were introduced for the delivery of alcohol to strengthen harm minimisation standards, particularly for higher-risk alcohol deliveries made on the same day as ordered.

The terms of reference for Stage 1 of the Alcohol Delivery Reforms review were:

- to review the requirements to provide evidence of age and identity for same day deliveries and other liquor deliveries.
- consider whether additional evidence of age requirements are needed for liquor deliveries that are not same day deliveries.

Key findings from the Stage 1 review

- Awareness of the respective age and identity verification requirements for same day alcohol deliveries and other liquor deliveries is mixed.
- Compliance with requirements has been impacted, with drivers not supported by employers.
- The point-of-sale (POS) verification extension was supported by industry due to the difficulties in implementation and the Trusted Digital Identity Framework (TDIF) itself.
- There is not yet enough evidence that additional proof of age requirements are required for other liquor deliveries.
- The Responsible Supply of Alcohol Training (RSAT) course has been well-received with some improvements required to content and processes.

Response to findings

The NSW Government is committed to a safe, modern, and growing 24-hour economy that effectively safeguards the community from harm, while ensuring laws around alcohol delivery stay current with changes in the industry and technology. As a response to the findings from Stage 1 of the review, Liquor & Gaming NSW (L&GNSW) will take several steps to ensure the safety of alcohol delivery, support business growth, and manage the risk of alcohol-related harm.

These steps include updating the L&GNSW website and working with industry and the Liquor Accords network to improve education and information to delivery drivers and licensees.

L&GNSW will also review aspects of the same day delivery POS requirements, and training material to ensure its fit for purpose and meeting expectations. Additionally, Stage 2 of the review will include further research on the risk of harm to minors with alcohol delivery.

Background

The reforms

In November 2020, Schedule 3 of the *Liquor Amendment (Night-time Economy) Act 2020* introduced changes to the *Liquor Act 2007* and *Liquor Regulation 2018* to strengthen the harm-minimisation requirements for alcohol delivery services.

These reforms specified that for all alcohol deliveries from 1 July 2021:

- Liquor must not be delivered to a minor.
- Liquor must not be delivered to an intoxicated person.

The reforms included several additional laws that apply for only same day deliveries, including:

- Age must be verified upon delivery if the recipient could be under 18 years.
- Only the adult named on the order can accept the delivery and identity must be verified either through evidence of age documentation or a signed declaration.
- Licensees and other providers are unable to impose financial penalties on same day delivery drivers for refusing delivery to an intoxicated person, or when the recipient's age or identity cannot be verified.
- The RSAT course is mandatory for all same day alcohol delivery drivers from 1 December 2021.

The following change was intended to commence on 1 June 2022:

- Requirement for same day alcohol delivery providers to implement mandatory age verification at initial point of sale for all first-time purchases, using an accredited identity service provider under the Commonwealth Government's Trusted Digital Identity Framework (TDIF).

Following feedback from industry, delivery providers were given until 1 September 2022 to fulfill this requirement and the following options are also temporarily available until 31 May 2023:

- Alternative option 1: Use of an alternative artificial intelligence system provided by a TDIF-accredited service provider (or a provisionally accepted provider).
- Alternative option 2: Requirement for the purchaser to make a statement confirming they will provide identification for age verification purposes upon delivery.

The review

The Terms of Reference for Stage 1 of the review, as specified by section 114R of the *Liquor Act 2007*, were:

- To review the requirements to provide evidence of age and identity for same day deliveries and other liquor deliveries.
- Consider whether additional evidence of age requirements are needed for liquor deliveries that are not same day deliveries.

The objectives for Stage 1 of the review were to assess:

1. Awareness of the respective age and identity verification requirements for same day alcohol deliveries and other liquor deliveries.

2. Compliance with the respective age and identity verification requirements for same day deliveries and other liquor deliveries and identify any potential barriers or emerging technologies relevant to compliance.
3. Whether additional proof of age requirements are required for liquor deliveries that are not same day.
4. Uptake, awareness, and satisfaction with the RSAT course among course participants and other stakeholders.

Review method

Stage 1 of this review was informed by:

- Stakeholder interviews (conducted July and August 2022)
 - Advocacy and health representatives (n=3)
 - Industry representatives (n=7)
 - NSW Police (n=1)
 - L&GNSW internal business units
- Written submissions (n=10)
- Survey of RSAT trainees (n=20,732)
- Survey of same day alcohol delivery drivers (n=507)
- Literature review, including a review of relevant legislation in other states and territories
- L&GNSW compliance breach data.

Findings

Awareness of the respective age and identity verification requirements for same day alcohol deliveries and other liquor deliveries

1. Overall, Liquor & Gaming NSW (L&GNSW) communicated the reforms well, however, the content on the L&GNSW website and utilisation of the Liquor Accords could be improved.
2. Approximately one in 10 alcohol delivery drivers were unaware of the age and identity verification requirements for same day alcohol delivery. This suggests further ongoing education and information is required, potentially from employers, to improve knowledge of the requirements.
3. Alcohol delivery drivers identified a lack of customer awareness as a contributing factor to experiencing negative, and at times aggressive, responses from customers.
4. Industry stakeholders believed the communication of point-of-sale (POS) requirements could be improved in relation to the technical detail of Trusted Digital Identity Framework (TDIF) and, more detailed information on legislative requirements.

Compliance with the respective age and identity verification requirements for same day deliveries and potential barriers or emerging technologies relevant to compliance

5. Through 25 covert compliance operations conducted by L&GNSW, verification of identity on delivery was identified as an area for improvement¹. Failures were reported to be due to a lack of awareness among delivery drivers that identification needed to be verified for all same day deliveries.
6. Ten percent of alcohol delivery drivers (n=50 out of 507 surveyed) reported not feeling protected from being penalised for refusing a delivery, and nearly one in 10 drivers who had refused a delivery reported having been penalised by their employer. L&GNSW will be undertaking further compliance activity to understand the extent of this issue.
7. Industry stakeholders were supportive of L&GNSW's decision to extend the deadline for online point-of-sale (POS) verification, as there were technical impediments to implementation and limited TDIF approved providers.
8. Industry stakeholders noted that whilst some areas in industry would be in a better position to comply with the TDIF requirement by 31 May 2023, they raised concerns about technical issues and cost which would be particularly difficult for smaller providers to absorb. In addition, the TDIF is still in pilot phase, and any future changes could impact industry's ability to comply.
9. Health and advocacy stakeholders strongly believed that any delay or alternative requirements to the TDIF would not achieve the intended harm-minimisation outcomes.
10. The review found that alcohol delivery providers experienced some operational difficulties in meeting the Point of Delivery (POD) age and identity requirements, particularly in relation to contactless deliveries, customers buying gifts for others, and delivering to office buildings.

¹ Out of the 25 operations undertaken, seven included a failure to verify identity. This was the most consistent failure identified during compliance testing.

11. Drivers indicated that they require additional protection, support and education from industry and L&GNSW to ensure there is a high level of compliance. This includes further education on de-escalating situations and communication to customers on the requirements.

Whether additional proof of age requirements are required for liquor deliveries that are not same day

12. Further evidence is required to understand the extent to which minors have accessed alcohol through online deliveries and, as such, what harms, if any, have been associated with the provision of alcohol to minors via non-same day liquor deliveries.
13. Stakeholders were divided on whether there is a risk of harm to minors from non-same day alcohol deliveries and whether additional age and identity requirements should be introduced. Industry stakeholders generally believed the risk of minors accessing non-same day alcohol was minimal and further requirements were not necessary, whereas advocacy and health organisations suggested that any potential access to alcohol is of concern.
14. As of May 2023, no compliance activities have been conducted on non-same day alcohol delivery, however one complaint was received, relating to a minor purchasing liquor through non-same day delivery with investigations finalised.

The level of uptake, awareness and satisfaction with the RSAT course among course participants and other stakeholders

15. Awareness of the RSAT requirement is high, with 20,732 people completing the course in the first 12 months.
16. Overall, the RSAT requirement has been positively received by stakeholders and nearly all RSAT trainees supported and understood the reasoning for the requirement.
17. Suggestions for improvement of the RSAT content included further plain English checks on the language used throughout the course material and the inclusion of more practical information on de-escalating situations with displeased and/or aggressive customers.
18. Some stakeholders reported that the current PDF certificate of completion can be difficult to use to verify whether an alcohol delivery driver has completed the RSAT and suggested that instead the RSAT should be included in the competency card.

Response to Findings

The NSW Government is committed to ensuring a safe and thriving 24-hour economy. Part of this is ensuring the regulatory framework around alcohol delivery is effective and protects the community from harm, while keeping up with changes in the industry and technology. Following Stage 1 of the review, L&GNSW has identified the following areas for improvement and will take the following steps to enhance the communication and education of the same day delivery age verification requirements.

Communication

L&GNSW will review and update its website content, including the FAQs, to ensure that age and identity verification requirements for same-day alcohol delivery are easily understood and accessible to the public. L&GNSW will work with industry and the Liquor Accords network to improve communication channels between licensed premises and disseminate relevant information to licensees and delivery drivers on same day delivery requirements.

L&GNSW has also made it easier for businesses to verify if someone has completed the RSAT course by providing a website link to businesses to verify RSAT certificate details.

Education

L&GNSW will provide ongoing education and information to alcohol delivery drivers to improve their knowledge of age and identity verification requirements. L&GNSW will also review the language, literacy, and numeracy (LLN) requirements for the RSAT course to assess whether the course material needs to be reviewed in simpler language.

L&GNSW is concerned with the reported rates of alcohol delivery drivers not feeling protected from being penalised for refusing deliveries. L&GNSW will be undertaking further compliance activity to better understand this issue and determine whether further enforcement action should be taken. L&GNSW will also be issuing refreshed guidance to industry stakeholders on the statutory protections for alcohol delivery drivers.

L&GNSW is committed to retaining the RSAT course and ensuring that the fees remain fair. In addition, businesses now have the option to purchase RSAT courses in bulk for their staff through TAFE NSW.

POS age verification requirements

While industry stakeholders are in a better position to comply with POS requirements as compared to 2022, subsequent consultation with the industry has indicated that some businesses will still not be able to fully meet the TDIF requirements by 1 June 2023. The concerns identified in the report and subsequent consultation suggest that there are still issues surrounding the associated cost for small businesses, a limited number of accredited digital identity providers, and technical system issues. These issues have hindered the ability of some businesses to comply with the TDIF POS age and identity verification requirements. In response to these concerns, L&GNSW will continue to explore options to transition the industry into meeting effective POS requirements, including enhancing communications with providers, and considering extending the temporary POS age verification requirement options, where appropriate.

Further research

L&GNSW will conduct further research to assess the extent to which minors have accessed alcohol through non-same day liquor deliveries and to assess potential harms associated with the provision of alcohol to minors through these channels. This research will inform future regulatory measures to protect public health and safety.



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