

Botox and cosmetic fillers

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This guidance is for England

In order to safeguard children from potential health risks, the Botulinum Toxin and Cosmetic Fillers (Children) Act 2021 has been introduced to prohibit persons and business owners from administering botulinum toxins (generally referred to as Botox) and cosmetic fillers to children under the age of 18.

Business owners are also prohibited from making arrangements to administer, or arranging for another person to administer, botulinum toxins and cosmetic fillers to children under the age of 18.

If you are a business owner, you should have effective systems in place to avoid committing an offence under the Act.

The law

If you are a person who administers botulinum toxin and cosmetic filler, or if you own a business offering services to administer these products, the Botulinum Toxin and Cosmetic Fillers (Children) Act 2021 applies to you.

As a business owner, you must ensure that a person working in the business (other than an 'approved person') does not administer either:

- botulinim toxin

... or

- cosmetic filler

... to a child under the age of 18.

A filler is a subcutaneous, submucous or intradermal injection of a filler for a cosmetic purpose (whether or not it was designed to be so used) where the likely effect of the injection is, or would be, to alter the appearance of the person injected.

You must also ensure that you, or anyone acting on your behalf (such as an employee), do not make arrangements to administer these products to a child under the age of 18. Agreeing to perform a procedure on someone underage, making an appointment and confirming the appointment can be considered to be 'making arrangements'.

This is because you commit an offence if a person (other than an 'approved person') administers one of these products or if you, or anyone acting on your behalf, makes arrangements to administer one of these products to a child under the age of 18.

A registered medical practitioner (a doctor) is an 'approved person'. A regulated health professional (a nurse, dentist and pharmacist) is also an 'approved person' when acting under the direction of a registered medical practitioner.

Defences

If you, as business owner, are charged with an offence, you have the 'due diligence' defence available to you. This means that you need to prove that you took all reasonable precautions and exercised all due diligence to avoid committing the offence.

A person charged with an offence of administering one of the products has a defence that they were either a registered medical practitioner or a regulated health professional (acting under direction) at the time of the offence, or that they had taken reasonable steps to establish the person's age and reasonably believed that the person was 18 or over.

Keeping within the law

As business owner, in order to keep within the law and therefore satisfy the legal 'due diligence' defence, you should introduce an age verification policy and have effective systems to prevent the administering (or making arrangements to administer) botulinum toxin or cosmetic filler to a child under the age of 18. These systems should be regularly monitored and updated as necessary to identify and put right any problems or weaknesses.

Key best practice features of an effective system include the following.

Age verification checks

Always ask young people to produce proof of their age. The Chartered Trading Standards Institute, the Home Office and the National Police Chiefs' Council support the UK's national Proof of Age Standards Scheme (PASS), which includes a number of card issuers. You can be confident that a card issued under the scheme and bearing the PASS hologram is an acceptable proof of age.

A passport or photocard driving licence can also be accepted but make sure that the card matches the person using it and the date of birth shows they are 18 or over. Military identification cards can be used as proof of age but, as with other forms of identification, make sure that the photo matches the person presenting the card and check the date of birth. Be aware that military identification cards can be held by 16 and 17-year-old service people.

You do not have to accept all of the above forms of identification and it may be best to exclude any type of document that your staff are not familiar with.

Some young people may present false identification cards so it is advisable to also check the look and feel of a card. For example, the PASS hologram should be an integral part of a PASS card and not an add-on.

If the person cannot prove that they are at least the minimum legal age - or if you are in any doubt - an appointment for a procedure should not be made.

Please see the Home Office *False ID Guidance* for more information.

Operate a Challenge 21 or Challenge 25 policy

This means that if the person appears to be under 21 or 25, they will be asked to verify that they are 18 or over by providing valid proof of age before making an appointment (whether online, by phone or face-to-face) and again before the procedure is actually carried out.

Staff training

Make sure your staff are properly trained. They should know which procedures are age restricted and the action they must take if they believe a child under 18 is attempting to book an appointment. It is important that you can prove your staff have understood what is required of them under the legislation. This can be done by keeping a record of the training and asking members of staff to sign to say that they have understood it. These records should then be checked and signed on a regular basis by management or the owner.

Maintain a refusals log

All refusals should be recorded (date, time, incident, description of potential client). Maintaining a refusals log will help to demonstrate that you actively refuse bookings and have an effective system in place. Logs should be checked by the manager / owner to ensure that all members of staff are using them.

A specimen refusals log is attached.

Some tills have a refusals system built in. If using a till-based system, you should ensure that refusals can be retrieved at a later date.

Till prompts

If you possess an EPOS system, it may be possible to use it to remind staff of the age restriction via a prompt.

Signage

Display posters showing the age limit for these procedures and a statement regarding the refusal of appointments for them. This may deter potential purchasers and act as a reminder to staff.

Closed circuit television (CCTV)

A CCTV system may act as a deterrent and reduce the number of incidents of underage appointments.

Online appointments

If you take online appointments, you should set up an effective system capable of verifying the age of potential purchasers. Please see 'Online sales of age-restricted products' for more information.

Further reading

The Department for Health and Social Care has produced guidance on how to comply with the law, which can be found on the GOV.UK website.

Trading standards

For more information on the work of trading standards services - and the possible consequences of not abiding by the law - please see 'Trading standards: powers, enforcement and penalties'.

In this update

New guidance: December 2021

Key legislation

Botulinum Toxin and Cosmetic Fillers (Children) Act 2021

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

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