



**THE SCOTCH WHISKY ASSOCIATION**

**CODE OF PRACTICE FOR THE  
RESPONSIBLE MARKETING  
AND PROMOTION  
OF SCOTCH WHISKY**

**FOURTH EDITION**

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## LIST OF CONTENTS

<b>INTRODUCTION</b>	<b>1</b>
<b>OBJECTIVES</b>	<b>2</b>
<b>SCOPE</b>	<b>3</b>
<b>CODE RULES</b>	<b>4</b>
4.1 RESPONSIBLE CONSUMPTION .....	4
4.2 PROTECTING THOSE UNDER THE LEGAL PURCHASE AGE .....	6
4.3 ALCOHOL CONTENT .....	8
4.4 DRINKING AND DRIVING .....	10
4.5 SEXUAL AND SOCIAL ACCESS .....	11
4.6 ALCOHOL AND HEALTH .....	13
4.7 TASTINGS .....	14
4.8 DIGITAL MARKETING .....	17
4.9 SPONSORSHIP .....	23
<b>COMPLIANCE</b>	<b>26</b>
<b>COMPLAINTS PROCEDURE</b>	<b>27</b>
6.1 INFORMAL PROCEDURE .....	27
6.2 ADJUDICATION OF BREACHES OF THE CODE .....	27
6.3 COMPLAINTS COMMITTEE .....	30
6.4 INDEPENDENT COMPLAINTS PANEL .....	30
6.5 COMPETITION PROVISIO .....	30
6.6 COMPLAINTS AND QUERIES .....	30



## 1. INTRODUCTION

The Scotch Whisky Association (SWA) is the trade organisation that represents distillers, bottlers, blenders, brokers and brand owners of Scotch Whisky.

The Scotch Whisky industry takes very seriously its commitment to marketing its products to consumers in a responsible way. The industry has developed this Code of Practice setting out minimum standards for the marketing and promotion of Scotch Whisky brands in the UK and globally.

The Code of Practice covers all commercial communications by members. This includes advertising, promotional materials and sponsorship. It applies in the UK and also abroad in export markets where stricter national codes do not exist.

The Code of Practice is a condition of membership for all members of the SWA. It is backed by an Independent Complaints Panel that has a range of sanctions at its disposal if members breach the Code.

These minimum standards can be added to by member companies through individual policies. The Code of Practice does not supersede any individual global code of practice already instituted by a member company which is recognised by the SWA as containing equivalent principles and processes. Examples of company best practice will be notified to the industry to encourage and assist others.

Guidance has been developed to support member companies in comply with the rules. Where relevant the guidance set out best practice.

The phrase legal purchase age (LPA) is used throughout the document. LPA varies by market. Should no LPA exist, 18 years old should be used as the standard.

## 2. OBJECTIVES

The SWA and its member companies wish to encourage those adults who choose to drink alcohol to do so responsibly, and to discourage the misuse of alcohol. The Association and its members also encourage responsible attitudes to alcohol, such as avoiding alcohol consumption when pregnant, for health or religious reasons, or when driving or operating machinery.

The objective of the Code is to set out the principles and rules for the responsible marketing and promotion of Scotch Whisky. Like any other forms of alcohol, Scotch Whisky should be consumed in moderation. When consumed responsibly by adults, alcohol can be part of a balanced lifestyle, play a positive role in social occasions and celebrations, and make a significant contribution to jobs, investment and government revenues.

### 3. SCOPE

The principles of the Code cover all commercial activities and communications in relation to Scotch Whisky, such as, but not exclusively: brand merchandising and promotional material; product labelling and packaging; point of sale material; tastings; sponsorship and press releases. The provisions of this Code also embrace advertising activity, including digital, social media and product placement.

Companies should be aware that advertising is often also governed by separate regulations or codes. For example, in the UK the SWA fully endorses and subscribes to the rules and principles of the Advertising Standards Authority/ OFCOM and The Portman Group.

Nothing in this Code is intended to impose restrictions on price related issues.

Scotch Whisky is enjoyed around the world, so companies will need to take account of national differences in legal purchase age, and of differing local cultural, religious, gender, race and regulatory considerations.

The Code sets out minimum standards that the industry should strive to achieve around the world, even where less rigorous local regulations exist.

Where codes of practice do not exist in individual markets, or where a local code does not enshrine the principles of this Code, SWA members are encouraged to promote the principles of the Code and, together with others in the market, promote the message of responsible drinking and the establishment of a comparable local code of practice.

Member companies shall apply the spirit as well as the letter of the Code.

## 4. CODE RULES



### RESPONSIBLE CONSUMPTION

#### 4.1 RESPONSIBLE CONSUMPTION

- 4.1.1 A responsible drinking message should be carried on all advertising: traditional and digital, including brand websites, and print point of sale materials. The content and size of the message is to be determined by the individual company.
- 4.1.2 Promotional and marketing materials that show product consumption should portray Scotch Whisky being consumed and drinkers behaving in a responsible manner.
- 4.1.3 The majority of adults who choose to drink alcoholic drinks do so without harming themselves or others. The marketing of Scotch Whisky that depicts responsible drinking as a relaxed, sociable and enjoyable part of life has a role to play in promoting a responsible approach to alcohol consumption.
- 4.1.4 Scotch Whisky producers recognise that some people choose not to drink alcoholic drinks. Promotional and marketing activity should not seek to challenge this choice, nor suggest that the decision not to drink alcohol is in any way socially unacceptable or anything other than a legitimate personal choice.
- 4.1.5 Company marketing communications should never promote, support or condone illegal, irresponsible or immoderate consumption, such as binge drinking or drunkenness. Consumption must not be portrayed or encouraged before or during the use of machinery, driving or undertaking any potentially hazardous pursuit or pastime.
- 4.1.6 Company marketing should never suggest that drinking is associated with bravado, or with violent, aggressive, dangerous, or anti-social or illegal behaviour.
- 4.1.7 Company marketing should never suggest that drinking is associated with, acceptance of, or allusion to, illicit drugs.

## GUIDANCE

### Responsible drinking message (RDM)

#### Content

- The content of the message is at the discretion of the member company, but as a minimum should state 'Drink Responsibly'.
- It may be tailored to a particular brand or campaign if that is considered appropriate.
- For markets which have mandatory health warnings and/or messages consideration may be given as to whether an additional RDM is appropriate.

#### Print

- The size and placement of the RDM message are important considerations
- It should be separate from any mandatory information.
- It should be readily visible and readable to consumers.



- It should be legible for the type of media execution intended.
- It must not be placed vertically on a page or billboard or in the seam of a magazine.

#### TV and Cinema

- A textual message and/or and voice over RDM may be used. These would typically be used at the end of the advert.

#### Radio

- A voice over RDM must be audibly clear and understandable.

#### Digital

- Brand websites may include the RDM on the landing page. The RDM may be repeated before entering the online shopping section of a brand website.

#### **Never an association with bravado or support or condone illegal, irresponsible or immoderate consumption**

- Never suggest that you have to be tough or daring to drink a Scotch Whisky. Nor present consumption as a challenge eg do not use phrases, such as, can you 'handle it'.
- Do not glamourise gang culture or criminal activity. Some brands can trace their brand heritage back to times where the sale of alcohol was prohibited or illicit distillation was common place. Historic association with illegal behaviour should be placed in context.
- Do not create an association with illicit alcohol production for no other reason than to glamorise it. References to the time of prohibition in the USA should be ok in context. However, avoid using words such as moonshine as it still remains associated with illicit alcohol.
- Do not show any images of people drinking heavily or rapidly or in a state of drunkenness.
- Do not depict images of consumers drinking before or during activities, or in situations, or locations, where drinking would be unwise or unsafe.
- It is acceptable to show adults enjoying a drink after an activity or playing a sport, provided it is clear the activity will not resume.
- Avoid phrases which might be seen as describing the effect of excessive consumption e.g. wasted, smashed or which refer to a lengthy period of consumption.
- Words and phrases from contemporary drug culture should be avoided as should any illustrations/images of drugs e.g. marijuana leaves or drug paraphernalia.
- Do not portray pregnant women in any marketing executions.



**UNDER LEGAL  
PURCHASE AGE**

## 4.2 PROTECTING THOSE UNDER THE LEGAL PURCHASE AGE

- 4.2.1 Scotch Whisky should not be advertised or marketed in any manner directed at or primarily appealing to persons below the legal purchase age. Marketing materials and promotions should not depict anyone under legal purchase age or portray objects, images, content or themes that primarily appeal to persons below the legal purchase age.
- 4.2.2 Brands should not be advertised or promoted by any person who is below the legal purchase age or who is made to appear to be below the legal purchase age. To help ensure that individuals in advertising are and appear to be above the legal purchase age, models and actors shown drinking should be a minimum of 25 years old.
- 4.2.3 When the services of a celebrity or influencer are used to advertise or endorse a product, that person should not primarily be associated with or be appealing primarily to persons below the legal purchase age.
- 4.2.4 Communications should be placed in print and digital media only where at least 70% of the audience is reasonably expected to be above the legal purchase age. In countries where a higher threshold is laid down (e.g. the UK at least 75%), companies must adhere to that higher percentage.
- 4.2.5 Brand logos and names should not be used on clothes, toys, games, or other items intended for use primarily by persons below the legal purchase age.
- 4.2.6 Products should not be advertised or marketed in a manner associated with the attainment of adulthood or the "rite of passage" to adulthood.
- 4.2.7 This Code does not apply to any materials or activities that have the clear purpose of educating those under the legal purchase age about the use and misuse of alcohol or the industry's role in society. For example, responsibility messages that communicate that the product should not be purchased or used by those under the legal purchase age are not intended to be prohibited by the Code.

### GUIDANCE

#### Primary appeal

- Primary appeal to those under the legal purchase age is defined as a special attractiveness to such persons above and beyond the general attractiveness it has for a person older than the legal purchase age.
- See link to further guidance prepared by the World Federation of Advertisers for the Responsible Marketing Pact to ensure that ad content does not appeal to minors. This is a comprehensive blacklist of over 50 practices and techniques that are likely to be disproportionately appealing to those under the legal purchase age <https://the-rmp.eu/content/>.

#### Models/actors/celebrities used in advertising not to be under 25 years old

- Have in place procedures to confirm the age of models and actors used in advertising.



- As well as being 25 years old or older, models/actors used in advertising of a brand should appear to be this age or older. This is subjective and it should be recognised that for some cultural groupings they may appear younger than their age.
- If using company employees in any brand marketing you should ensure they are 25 years old or older.
- In relation to celebrities, do not use children's TV presenters nor personalities or influencers that have a fan base that would be of primary appeal to those below the legal purchase. You should check their fan website/social media footprint and seek information from their agent. They should have an audience of at least 70% above the LPA.
- You should also make an assessment as to whether the celebrity is appropriate for your brand. You should check media reports (including social media) to assess whether or not they have a responsible attitude towards alcohol consumption.

#### **Compliance with the 70% rule (higher in some markets)**

- Companies should have in place procedures for monitoring audience age profile in the media (and, where applicable and available, time slots/ programs) in which they advertise.
- Monitoring should take place on a regular basis.
- Media buyers should request best available audience profile data from suppliers (print, TV, radio, cinema).
- Reasonable steps should be taken not to use stationary out of home (OOH) static advertising space i.e. billboards, bus shelters, telephone kiosks which are in close proximity to schools, nurseries (i.e. less than 200m). Advertising on the outside of licensed premises is excluded from this rule.

#### **Rite of Passage**

- Do not use the occasion of a person reaching the legal purchase age, becoming an adult or becoming more mature as a theme for a marketing communication.


**ALCOHOL  
CONTENT**

### 4.3 ALCOHOL CONTENT

- 4.3.1 The SWA supports efforts to promote responsible consumption. In those markets where this is defined, the SWA encourages members to provide unit/ standard drink information in order that consumers can make informed choices.
- 4.3.2 The alcoholic nature of a drink should be communicated on its packaging with absolute clarity, in line with national legal requirements.
- 4.3.3 Factual information about the alcoholic strength (alcohol content) of a drink does help consumers to make informed decisions, but alcohol strength should never be the dominant theme of any marketing communication.
- 4.3.4 Undue emphasis should not be placed on higher alcohol content as the principal basis of appeal. The responsible marketing of cask strength products will not breach this Code.

### GUIDANCE

#### Provision of unit/standard drinks information

- Where required to be included on labels etc. by regulations then member companies must comply with the local requirements.

The International Alliance for Responsible Drinking maintains a table of governmental responsible drinking guidelines– see link: <https://iard.org/science-resources/detail/Drinking-Guidelines-General-Population>

- Where a national government has a policy of promoting its guidelines, member companies may wish to consider what action they can take to help promote such responsible drinking guidelines. This could include:
  - Shown on their own and/or
  - Who is the focus or centre of attention of the marketing execution
- Legal advice should be taken before such efforts to ensure they would not violate any applicable laws, industry codes or present undue liability risks.

#### Strength should never be the dominant theme

- It is appropriate to give factual information about the strength of the product. However, whatever the nature of the commercial communication it:
  - Should not be emotive - although not often used in relation to Scotch Whisky brands it is best to avoid terms such as 'extra strength' or 'super strength'
  - Must not be given undue emphasis e.g. highlighted in a box or printed in a larger font or a different colour
  - Do not use descriptive words or imagery which seek to glamorise or allude to strength

- Do not use words in the brand name or accompanying marketing text which have the connotation of strength and/or an intoxicating effect
- Do not use phrases such as 'Warning! Dangerously high in alcohol' as this could have a boomerang effect for those who might seek to abuse the product
- Avoid the use of the strength of the product in the brand name, especially if the brand in question is a brand extension which is higher in strength than the main brand.

#### **Cask Strength Scotch Whisky Brands**

- A small proportion of the Scotch Whisky market is sold at cask strength i.e. the alcoholic strength the whisky is bottled at straight from the cask.
- The phrase 'cask strength' is a traditional and an accurate description of the product. It aids consumers by informing them that strength is different/higher.
- Commercial communications should never use the higher strength of cask strength Scotch whiskies as a virtue of the product. The strength should be communicated in a clear and informative way.



**DRINKING  
& DRIVING**

#### **4.4 DRINKING AND DRIVING**

- 4.4.1 The Association believes those who choose to drive should not drink. Advertising and marketing materials should not portray, encourage or condone driving any motor vehicle after drinking.
- 4.4.2 The consumption of Scotch Whisky must not be portrayed or encouraged before or during the use of machinery, driving or undertaking any potentially hazardous pursuit or pastime.



## SEXUAL & SOCIAL SUCCESS

### 4.5 SEXUAL AND SOCIAL SUCCESS

- 4.5.1 Scotch Whisky brands and drinkers may be portrayed as part of responsible personal and social experiences and activities, such as the depiction of persons in a social or romantic setting, persons who appear to be attractive or affluent, and persons who appear to be relaxing or in an enjoyable setting.
- 4.5.2 However, no marketing communications should contain any claims or representations that individuals can attain social, professional, educational, or athletic success or status as a result of alcohol consumption. Marketing communication should not imply that consumption of alcohol is necessary to ensure the success of an event or occasion.
- 4.5.3 Marketing communications should not suggest that drinking Scotch Whisky enhances sexual capabilities, attractiveness, masculinity or femininity, nor suggest any association with sexual activity or sexual success.
- 4.5.4 Marketing communications should adhere to generally accepted standards of good taste and should not cause serious or widespread offence.

### GUIDANCE

#### Social success

- Within a group setting, do not show the individual drinking or holding a glass containing product in a way that he/she may reasonably be perceived as being more popular or socially successful as a result of drinking.
- Do not indicate or imply that not drinking is linked to a lack of social success.
- Do not show or imply that drinking is a way to enhance one's confidence, solve social or personal problems or to overcome inhibitions or shyness.
- It should not be suggested that drinking Scotch Whisky has played a key part in the success of an event.

#### Sexual success

- Implicit sexual activity and seduction scenarios should not be used in any marketing activity. This is not to be confused with romance.
- Nudity must be treated with great care to ensure artistry does not become overtly sexual. Never show product being poured over a naked person.
- There should be no references to sexual activity.
- Marketing executions should not objectify and/or overly sexualise an individual. Any image or illustration which unnecessarily focuses on someone's body or body parts (i.e. focussing on a person's torso) is likely to be interpreted as objectifying someone based on their gender or sex.

- Do not depict someone in a highly sexualised manner. Do not show strong sexual images e.g. a person lying on a bed wearing seductive underwear.
- It is important to be sensitive to changes in society e.g. the Me Too movement.

#### **Generally accepted standards of good taste and avoid causing serious or widespread offence**

- This is a subjective issue. However, it is important to be sensitive to local and cultural variation and that there is a broader society perspective than that of the target audience. It is important to realise that a campaign may be acceptable in one market but not another.
- Prevailing standards in a society will be considered when determining where serious or widespread offence has been caused.
- Widespread in this context means the average consumer i.e. is the marketing execution so shocking that most people would find it offensive
- Serious offence would relate to any marketing that would be considered discriminatory, derogatory or demeaning.
- Avoid language, images, themes, or figures which are likely to be considered gratuitously offensive, disrespectful or demeaning to any group based on gender, sexual orientation, religion, nationality, and ethnic or minority group, disability or age. This is especially true when using humour to lighten sexual content – not everyone will get the joke!

**ALCOHOL &  
HEALTH****4.6 ALCOHOL AND HEALTH**

- 4.6.1 A considerable body of medical and scientific literature has been published on the benefits and risks of drinking. Much of this indicates that moderate drinking, for most adults, can be part of a balanced and healthy lifestyle. Scotch Whisky companies also recognise that some individuals should avoid drinking alcohol completely. Consumers who wish to take advice on consuming alcohol should consult their doctor.
- 4.6.2 No impression should be given that the consumption of Scotch Whisky can enhance mental or physical capabilities.
- 4.6.3 Companies should not market Scotch Whisky as having or suggest that it has health or therapeutic qualities or the ability to prevent, treat, or cure illness or change mood or behaviour.

**GUIDANCE**

- Marketing executions that portray drinking Scotch as a legitimate accompaniment to a relaxing setting should not breach the Code. However, any direct or implied suggestion that drinking Scotch has helped the consumer relax should be avoided. It should not be marketed in a way that suggests that it is a catalyst for a change in mood or mental state.
- Do not claim that anyone needs a Scotch as opposed to likes, or enjoys one.
- Do not claim that Scotch Whisky can make the drinker smarter, wittier, sharper, more focused, stronger, faster or high performing in some way.
- Avoid suggestions that drinking Scotch can invoke feelings/emotions directly as a result of consumption.
- Experiential brand activities which seek to provide the consumer with a unique brand-related experience should never suggest they can help a consumer to forget their everyday lives or see things differently through a lens of having a drink.





## TASTINGS

#### 4.7 TASTINGS (including on-trade promotions)

- 4.7.1 Scotch Whiskies each have their own individual characteristics and consumers will from time to time wish to taste different whiskies to broaden their education and to discover brands previously unknown to them.
- 4.7.2 Anyone carrying out sampling must comply with current local licensing legislation. All employees and third parties contracted to conduct tastings should be trained in responsible serving and must be of legal purchase age.
- 4.7.3 When conducting tastings, companies should encourage responsible consumption and discourage activities that reward excessive and/or abusive consumption. When conducting events, companies should recognise government sensible drinking guidelines and not offer to any one individual alcohol exceeding these recommendations.
- 4.7.4 Tastings should not promote or encourage drinking in conjunction with reckless and/or irresponsible behaviour, nor involve drinking games or activities that have speed incentives, or that require excessive quantities of alcohol to be consumed within a short time period.
- 4.7.5 Scotch Whisky is often drunk straight. That is not the same as being consumed as a 'shot'. Care should be taken to avoid encouraging rapid consumption or 'downing in one'.
- 4.7.6 Safeguards should be put in place to avoid tastings being undertaken by individuals under legal purchase age, or by those driving or operating machinery.

#### GUIDANCE

- In relation to the Code 'tasting' is defined as the unconditional giving away of product to the general public in a public place, including licensed premises.
- Hosted events attended by invited guests, such as dinners, educational visits and similar events are brand education experiences, and should be managed in accordance with the code stipulations and guidance on Responsible Consumption (section 4.1).
- It is important to remember that tasting or sampling allows the consumer to assess free of charge the taste and quality of the brand. It is not about offering drink simply as alcohol. Sampling portions should be smaller than a typical drink (i.e. 10ml).

#### Current Local Licensing Legislation

- Companies, or any sub-contracted party acting on their behalf, should ensure that any tasting or sampling activity is in accordance with local legal requirements.

#### Responsible Serving

- All staff involved in tastings should be over the legal purchase age and look over the legal purchase age.

- Staff involved in tastings, whether in-house or contract staff, should undergo responsible server training. Many companies operate their own server training programmes.
- Responsible drinking advice, messages and/or materials should be available at any tasting.
- Scotch whisky is often drunk straight, and often from small glasses. This does not mean that it is intended to be consumed rapidly as a 'shot'. However, sampling staff should avoid using any language such as 'shooter' or 'slammer', which could be interpreted as encouraging rapid consumption.

#### **Avoiding Excessive/Immoderate Consumption**

- Tasting/sampling events should be designed and run in accordance with recognised drinking guidelines in the country in which the activity takes place. No individual should be offered alcohol exceeding these recommendations.
- The International Alliance for Responsible Drinking maintains a list of drinking guidelines from a range of countries: <https://www.iard.org/science-resources/detail/Drinking-Guidelines-General-Population>
- Do not provide samples to anyone who appears to be impaired by alcohol or under the influence of drugs.
- Avoid delivering the sample in an irresponsible manner (for example, allowing the sampling staff to pour or squirt alcohol into the mouth of a member of the public). Do not let members of the public pour the sample.
- Information on the total alcohol content of the product sample should be available.

#### **Avoiding tastings being given to those under the legal purchase age**

- Only offer samples to people who are over the legal purchase age. If in doubt, staff should ask for proof of age in the form of a recognised card proving age in that market, such as driving licence, passport or national identity card.
- If proof of age cannot be supplied and there is any doubt as to whether the person is over legal purchase age then they should be politely refused a sample.
- Sampling should not occur in or near areas that attract or appeal or are being predominantly used by those under the legal purchase age.
- Ensure the sample is to be consumed by the person receiving it, i.e., it may not be obtained for someone else's consumption.
- If the activity is to take place in a public area, avoid using promotional equipment, materials or themes that are likely to primarily appeal to those under the legal purchase age.

#### **Avoiding tastings being given to those who are driving or operating machinery**

- Avoid deliberately targeting sampling activity at drivers and conducting tastings in stand-alone car-parks.

## CODE RULES

- You may want to ask if the person is driving. If the answer is yes, they should be politely refused a sample.
- In locations where people are likely to be driving, such as supermarkets or shopping centres, it is good practice to have anti-drink driving materials or advice available.
- There may be other locations or activities that are unsuitable to be associated with alcohol consumption. Do not provide samples in or near premises where it would be inadvisable to consume alcohol.



## DIGITAL MARKETING

### 4.8 DIGITAL MARKETING

- 4.8.1 The Code applies to all digital marketing communications produced and/or controlled by member companies.
- 4.8.2 Digital marketing communications should include a clearly visible responsible drinking message.
- 4.8.3 All digital marketing communications, where possible or appropriate, require age affirmation based on full date of birth and country of residence whenever digital marketing communications actively engage a user to interact directly with a brand.
- 4.8.4 Companies should only use media which can reasonably be expected to meet the threshold of at least 70% of the audience being over the legal purchase age<sup>1</sup>.
- 4.8.5 Companies that have a digital presence or create, curate or manage digital content or any type of online community on third party sites, social channels or apps must ensure the content complies with the requirements of the Code (i.e. in relation to responsible consumption, protecting those under the legal purchase age, alcohol content, drink & driving, sexual & social success, alcohol & health).
- 4.8.6 User Generated Content (UGC) is material created and uploaded to a site or webpage by an individual and not by the company. UGC that appears on third-party websites over which the company has no control is outside the scope of the Code.
- 4.8.7 UGC which appears on company websites or sites over which the company has editorial control should be monitored and moderated on a regular basis for compliance with the Code.
- 4.8.8 Whenever content is allowed to be shared on a company owned and/or controlled platform, a Forward Advice Note (FAN) should be included clearly stating that the content not be forwarded to anyone below the legal purchase age in the country of viewing.
- 4.8.9 Digital marketing communications must respect user privacy and comply with applicable data protection laws. Consumer consent is required prior to sending direct digital marketing communications. Consumers must be provided with an easy way to opt out of receiving direct digital marketing communications.
- 4.8.10 Digital marketing communications and product promotions must be transparent and not misrepresent their true commercial purpose.

### GUIDANCE

#### *Definitions*

#### **Direct Interaction**

- Direct interaction is triggered whenever a user is provided with the ability to directly and actively engage with the brand, beyond just viewing or listening to content (e.g., sharing content, posting content, responding to a direct digital marketing communication etc.).

<sup>1</sup> Or any other locally applicable rules on placement.

### **Direct Digital Marketing Communications**

- Direct Digital Marketing Communications cover all marketing communications whereby a brand engages directly and personally with a user, using either this user's private e-mail address or mobile phone number.

### **Control**

A company has control when:

- It is the author of the content and/
- or;
- such content is produced on its behalf and it has editorial input and/or;
  - the platform on which such content is placed is owned and/ or the company has access and authority to moderate the content.

### **Personal Data**

- Any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.

### **Consent**

- The data subject's consent' shall mean any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed.

### **Landing Page**

- The landing page is any web page which serves as the main entry point or homepage for a website.
- Members may wish to include age affirmation on the landing page. Where a brand website offers online sales it is required to use age affirmation based on full date of birth and country of residence before allowing entry to that section of the site.

### **The Responsible Drinking Message (RDM)**

- Wherever applicable, the RDM is placed on the landing page. The RDM may be repeated before entering the online shopping section of a website.
- The nature of the message is to be determined by the company, but should be something along the lines of 'please drink responsibly'.
- Wherever applicable, a company's marketing communications may include a visible responsibility tab as an alternative or in addition to the RDM (e.g. social media pages).

### Age-affirmation mechanisms

- Mechanism by which a user is required to provide his/her full date-of-birth (DOB) and country of residence (and province/state wherever appropriate) to affirm he/ she is of Legal Purchase Age (LPA) or over. Age-affirmation processes may vary according to the available technology. For brand websites offering online sales this is considered to be a minimum requirement.
- This information can be provided either by asking the user directly or through any technological settings which automatically recognize both or either of these.
- If the age-affirmation mechanism used includes a “remember me” option, an additional notice is included on the age-affirmation page reminding the user to consider the appropriateness of accepting this option if the computer is shared with other users below LPA.
- Whenever a user’s access is denied through an age-affirmation mechanism, this user is sent an appropriate message i.e. ‘Sorry you are not of the legal purchase age to enter this site /section of this site’. In addition they may be redirected to an appropriate alcohol-related responsibility website.
- In case a platform does not provide any age-affirmation mechanism, alcohol beverage companies should consider the following three conditions below before placing any digital marketing communications:
  - The platform’s audience in the country for which the marketing communication is intended meets the audience composition target of at least 70%<sup>2</sup> LPA or over;
  - An age-disclaimer is placed reminding users that the content is intended for LPA or over users only;
  - The platform provides a mechanism to pre-monitor or remove inappropriate User Generated Content (UGC), where applicable.

### Complying with the 70% rule (note this threshold may be greater in some markets i.e. the UK sets a higher threshold of 75%)

- If challenged (i.e. a complaint is made under the Code in relation to this rule) the onus is on the member company to demonstrate what action it took to comply with the 70% rule. A complaint could only be raised against a live campaign.
- In determining whether a particular third-party website or platform is a suitable vehicle in terms of audience profile being at least 70% above the legal purchase age, companies should refer to the following sources, in order of reliability.
- Syndicated data source – This should generally be seen as the most reliable evidence of a website’s audience profile. The most appropriate indicator is the most recent three months site average of available audience data of unique visitors (where seasonal fluctuations are evident the previous year’s data should also be taken into account, if available). Companies should be aware, however, that some syndicated sources do not cover all ages (for example, some suppliers’ data currently does not include individuals aged under-15). These sources should therefore be used with caution and allowance made for unrecorded visitors under the LPA.

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<sup>2</sup> Or any other locally applied rules on placement.

- Independent demographic survey - If a website is not measured by a syndicated data source, or the source does not provide convincing evidence of whether or not the 70% threshold has been met, companies should ask the website publisher to provide evidence of the age profile measured through an independent demographic survey.
- “Registered user” database – If neither of the above sources are available, or these data do not clearly demonstrate whether or not the 70% LPA threshold has been met, but the website publisher operates a “registered user” database incorporating an age confirmation element, companies should use this as evidence of the likely age profile of overall visitors.
- If a site does not meet the 70% threshold but it operates a registered user database and has the ability to target users demographically with advertisements based on the date of birth they gave when registering, a company may place an advertisement as long as it is seen only by those registered as LPA or over.
- In the event that none of the above is available, for example because it is a non-permanent (e.g. event-specific) website, a company should place marketing content only if either the website is age-protected to at least a similar standard as that expected of alcohol brand websites or it is entirely satisfied that the website unquestionably is targeting an adult audience and runs no risk of attracting a significant proportion of visitors under the LPA (e.g., more than 30% or 25 % in the UK) following a review of:
  - the (proposed) content of the website;
  - comparable websites;
  - data provided by the publisher regarding the target audience;
  - any other relevant factor

### **User Generated Content (UGC)**

- UGC which appears on company websites or sites over which the company has editorial control should be monitored and moderated on a regular basis. We recommend members aim to put in place procedures to monitor the site, when possible, on each business day or at least every 5 business days to ensure any unacceptable content is removed within 48 hours.
- It is worth including a message informing visitors to a site that inappropriate material will be removed.

### **The Forward Advice Notice (FAN)**

- Forwardable content refers to all digital content – including static, streaming and downloadable - which can be forwarded by a user to other users.
- The FAN is visible or accessible through a visible link (i.e. a hyperlink), on all member company-owned and/or controlled platforms (and/or directly in digital marketing communications) designed for sharing content, such as social media pages, mobile applications and direct digital marketing communications.
- For audio-visual content, the FAN is embedded in the video, separated from any other content (e.g., the RDM)<sup>3</sup>.

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<sup>3</sup> Except in the case of live streamed content.



- Whenever a company uses videos which feature the brand and/or the product, and which are placed on platforms which do not provide any age-affirmation mechanism, the video transmission should contain a separate embedded Forward Advice Notice stating that the video should not be shared with those under the LPA in the country of viewing<sup>4</sup>.

Detailed below is a link to 'how to videos' to help members ensure they can include the following on social media sites:

- An age affirmation mechanism
- A forward advice notice stating that this information should not be forwarded to those under LPA
- Transparency message making clear commercial purpose
- A responsible drinking message
- A message stating that any user generated content (UGC) promoting inappropriate or excessive consumption will be removed

Go to: <https://www.youtube.com/playlist?list=PLUK1-8zK-tCXcNjH1DRCc88CDD1zuU9xb>

### Privacy Policy

- Members should have in place procedures to ensure compliance with the GDPR requirements.
- Privacy policies govern the collection of personal information from adults over the LPA and encompass any direct digital marketing or advertising whether conducted through a social networking site, website or other digital channel and must ensure the following:
  - Consumer consent is required for the collection, processing, and usage of personal data in the context of direct digital marketing communications.
  - A company must provide clear information about what personal data is collected; the purpose(s) of such collection; with whom it is shared; rights and means of access, modification and deletion/suppression of such personal data; and organizational and technological security measures to safeguard personal data.
  - Prior to the collection of any information, the brand advertiser will require that individual to affirm that they are at least LPA, and user information only can be collected from those individuals.
  - A company must put in place a reasonably accessible and user-friendly mechanism for users to stop the collection and use of personal data as well as non-personally identifiable data. The following rules apply to the collection and use of e-mail addresses:
    - E-mail addresses can only be collected if the addressee has clearly been given the opportunity to consent to being placed on an email list. This should take the form of a box which should be ticked to opt-in. The box must be actively ticked, so the default should be that the box is left blank.
    - All e-mails must be sent from a functioning e-mail address that can accept replies or contain a returning email address which is functioning for at least 30 days after the e-mail has been sent.

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<sup>4</sup> Except in the case of live streamed content.

- All e-mails must contain the following information:
  - 1) Instructions on opting-out from receiving future messages;
  - 2) Accurate origin/routing information;
  - 3) the brand or company name and a physical postal address
- All requests for opt-outs must be honoured within ten working days after receipt.
- A company must provide clear information about how it uses consumer data and offer choices about how personal data is collected and used. Under no circumstances should the information collected be sold to third parties.
- Users should be encouraged to read the privacy statement before submitting their information.
- Measures should be taken to keep user information secure and protected from loss or theft.
- A company must ensure that the collection and usage of data respect all applicable rules and regulations in the country of activity. In case there are no such rules and regulations, alcohol beverage companies should respect the provisions listed in the Consolidated ICC Advertising & Marketing Communication Code<sup>5</sup>.

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<sup>5</sup> International Chamber of Commerce Advertising & Marketing Communications Code (2018). Retrieved 27 May 2020 from <https://cms.iccwbo.org/content/uploads/sites/3/2018/09/icc-advertising-and-marketing-communications-code-int.pdf>

**SPONSORSHIP****4.9 SPONSORSHIP**

- 4.9.1 As an integral part of each new alcohol sponsorship, companies must ensure there is a recognisable commitment to promoting responsible drinking and/or supporting diversionary/community activities; taking into account the size, scale, reach and length of the sponsorship.
- 4.9.2 Companies must not sponsor individuals, activities, teams, events, tournaments, competitions, bands or celebrities which have a primary appeal or are primarily aimed at, those under the legal purchase age.
- 4.9.3 Prior to sponsoring an event, team or activity, companies must use their best endeavours to obtain data on the reasonably anticipated participants, audience or spectator profile to ensure that at least the aggregate of 70% are aged over the legal purchase age. If historical data is not available, (for a new event, for example) then anticipated data, or data from a comparable event, should be obtained.
- 4.9.4 Companies must not sponsor or support individuals under the legal purchase age. A company may sponsor a team, band or group which features a player or member who is aged under the legal purchase age, provided that at least 70% of the overall participants are over the legal purchase age and that the team, band or group does not primarily appeal to underage audiences. Any participants under the legal purchase age should not be used individually in any promotional material or brand activation activity.
- 4.9.5 Sponsorship at events or tournaments which do not meet the 70% threshold are permitted but only if restricted to defined areas to which at least 70% of attendees are aged over the legal purchase age. However, a member company must not be the main sponsor but could be one of a number of sponsors.
- 4.9.6 Competitions for sponsored event tickets, which include the service of alcohol, must not be open to those under the legal purchase age.
- 4.9.7 Prior to entering a sponsorship agreement, companies must take reasonable steps to establish whether an association with alcohol and/or the sponsored party would be inappropriate under this Code.
- 4.9.8 Sponsorship of activities which may be hazardous after alcohol consumption (e.g. motor racing, sailing, skiing) is not in breach of this Code, but companies will wish to ensure that no link is made to suggest that alcohol consumption is appropriate while undertaking such activities or that success in these pursuits is enhanced by alcohol consumption.
- 4.9.9 Donations made by companies to assist programmes encouraging social responsibility or discouraging underage drinking will not be in breach of this Code.

**GUIDANCE****Definition of sponsorship**

Sponsorship is defined as:

*'The terms of any commercial agreement or part of an agreement by which sponsor, for the mutual benefit of the sponsor and the sponsored party (rights holder), contractually provides financing or other support in order to establish an association between the sponsor's image, brands or products and sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits.'*

The guidelines relate to commercial sponsorships and are not intended to encroach on local community support initiatives undertaken by companies.

The Code does not apply to commercial pouring rights or supplier agreements in their purest form.

### **Recognisable commitment**

- Recognisable commitment to promoting responsible drinking and/or supporting diversionary/community activities; taking into account the size, scale, reach and length of the sponsorship.
- All sponsorships are unique and therefore companies will tailor the commitment to the type and length of the sponsorship.
- Some sponsorships may be international in nature. The Code relates to activation of the sponsorship at the national level.

Diversionary/community activity is defined as:

*'Any activity or intervention that diverts people away from anti-social activities into pro-social, organised and constructive activities by either preventing them from falling into such activity or as a route out of such activities towards more positive lifestyle behaviours.'*

A company can promote responsible drinking and/or diversionary/ community activities or both. However, as most companies already promote responsible drinking as part of their marketing activities promotion of responsible drinking is likely to be part of any sponsorship. Also, as an integral part of each new sponsorship the activity should be specific and in addition to what the company has committed to at corporate level. If a company has committed to include a responsible drinking message on all advertising materials, promotion of responsible drinking will by definition need to be more than simply putting a responsible drinking message on point-of-sale materials.

### **Protecting those under the legal purchase age**

- A company should assess whether an individual, activity, team, event, tournament, competition, band or celebrity is suitable to sponsor by considering whether or not the sponsored party has primary appeal to those under the legal purchase age, and appeals to them in a way that it does not to those over the legal purchase age. If the answer is yes the sponsorship should not go ahead.
- If the event reflects the culture, fashion etc. of those under the legal purchase age or the individual being sponsored is seen as a role model or is considered to be primarily appealing to those under the legal purchase age then it should be avoided.
- To determine the primary appeal of an individual, information can be obtained from the individuals' agent or official fan site.

**Compliance with the 70% rule**

- If historical data is not available e.g. it is a new or one-off event, then reasonable proxy data, such as anticipated demographics, data from a comparable event, or readership or demographics data should be obtained.
- Teams, tournaments or events may have a mascot. This can be an animal or cartoon character; as such they may have a primary appeal to those under the legal purchase age. They should not wear alcohol branded clothing or interact with the brand in any way.
- Individuals between the legal purchase age and 25 years old who are sponsored may not appear in any advertising, but may appear in PR, event and promotional materials. The sponsorship agreement should not require them to endorse the product. If a company does imply the individual does endorse i.e. consumes the product and they are used in advertising then they should be over 25 years old and not be primarily appealing to those under the legal purchase age.

**Assessment of the appropriateness of the sponsored party**

- In addition to protecting those under the legal purchase age, companies should also consider whether there is any evidence to suggest the sponsored party has a reputation for immoderate consumption.

**Tastings at sponsored events**

- Refer to guidance on tastings section 4.7.

## 5 COMPLIANCE

The requirements of this fourth edition of the Code come into force from 1 October 2020.

SWA members are required to have in place internal arrangements to regulate compliance with this and other relevant codes of practice. The Association recommends that a senior Director is charged with responsibility for ensuring compliance with the Code. Where possible, this Director is separate from the advertising and marketing departments and from the development of promotional materials.

Companies should ensure that external consultants, such as public relations, marketing and advertising agencies and third party distributors working on marketing for the company are aware of the principles and provisions of this Code.

Companies should also take account of relevant national codes and regulations such as, in the UK, The Portman Group Code on the Naming, Packaging and Promotion of Alcoholic Drinks ([www.portmangroup.org.uk/codes-advice/](http://www.portmangroup.org.uk/codes-advice/)), The UK Code of Non-Broadcast Advertising and Direct and Promotional (The CAP Code [www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html](http://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html)) and The UK Code of Broadcast Advertising (The BCAP Code [www.asa.org.uk/codes-and-rulings/advertising-codes/broadcast-code.html](http://www.asa.org.uk/codes-and-rulings/advertising-codes/broadcast-code.html)).

Where national codes of practice do not exist in individual markets, or where a local code does not enshrine all of the principles of this Code, SWA member companies should follow the principles of this Code. Additionally they should work together with member companies and others active in the market to develop a local national code consistent with this practice. If this is unachievable, member companies should ensure that they disseminate a message about responsible drinking consistent with this Code.

## 6 COMPLAINTS PROCEDURE

On receiving a complaint the Association will clarify with the complainant whether or not they wish to proceed via the formal or informal complaint procedure. Association staff will as part of their initial investigation establish whether or not a complaint has been raised with any other relevant body or if any adjudication has taken place in relation to the complaint being raised.

If a complaint is currently underway with another relevant authority/body the Association will advise the complainant it will not proceed with the complaint until the outcome of that complaint is known.

If the complaint has already been adjudicated on by another authority/body the decision of that body will be reviewed by the Association with a presumption that no further action will be taken via the SWA Code.

### 6.1 INFORMAL PROCEDURE

Any company member or other interested party may contact the Association on an informal basis to raise a query relating to a particular marketing execution and its compliance with the Code. Executive staff of the Association shall review the issue and, where required, will raise it with the member company concerned.

The company or interested party that raised the query shall be kept informed, including of any decision to take remedial action with regard the marketing execution in question.

If a company or interested party that raised the query is not content with the outcome they are encouraged to bring a formal complaint in accordance with the procedures set out in 6.2.

### 6.2 FORMAL PROCEDURE

Following investigation by the Executive staff of the Association, complaints raised by industry members or other interested parties, including members of the public, shall be reviewed by the Complaints Committee (the Committee) of the Council of the SWA.

The company which is the subject of the complaint will be notified by email of the date and place of the meeting of the Committee at which the complaint is to be considered, and will be provided with a statement of the nature of the complaint. The email will be sent at least 15 working days before the meeting and will invite written or, if necessary, oral representations from the company.

Where a complaint is upheld, and before any public announcement to that effect, the company concerned and the complaining party will be provided with a written statement of the decision and the reasons for it. Within 15 working days of receipt of notification of the decision, the company concerned or the complaining party may appeal to the Independent Complaints Panel, failing which the decision of the Committee shall be final. The Independent Complaints Panel shall have the power to review the entire investigation, including the decision of the Committee, and may vary any sanctions imposed by the Committee as it sees fit. Any decision of the Committee which is subject to the appeal period, or to an appeal, shall be treated as provisional pending a final decision by the Independent Complaints Panel or expiry of the appeal period, as the case may be.

The company which is the subject of the complaint will be notified by email of the date and place of the meeting of the Independent Complaints Panel at which the appeal is to be considered. The email will be sent at least 15 working days before the meeting and will invite written or if necessary oral representations from the company.



## COMPLAINTS PROCEDURE

Following the decision of the Independent Complaints Panel, and before any public announcement, the company concerned will be provided with a copy of the decision in writing, together with the reasons for it.

When enforcing the Code, the Complaints Committee/Independent Complaints Panel shall have regard to the objectives set out above, and shall not impose any restrictions on companies which are not indispensable to the attainment of those objectives. Where a complaint is upheld, the Complaints Committee/Independent Complaints Panel, as the case may be, may:

- require swift remedial action to be taken to end the conduct which has been found to be in breach of the Code;
- authorise the communication of the decision through a press release and/or social media channels;
- impose a fine payable to the Scotch Whisky Association not exceeding £50,000. All funds raised in this way will be allocated to the Scotch Whisky Action Fund.

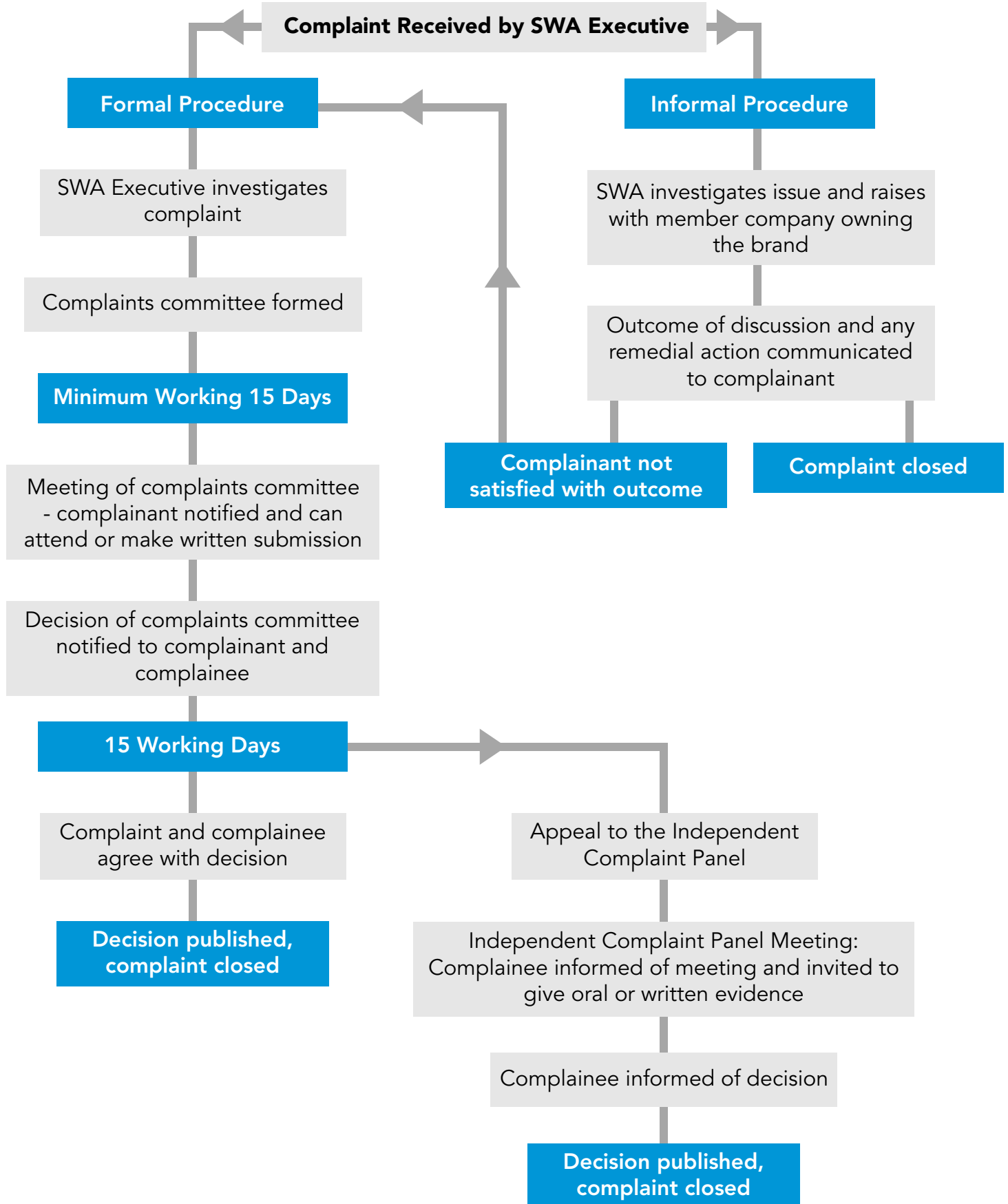
In the event of any company failing to take remedial action to end conduct which has been found to be in breach of the Code, or failing to pay a fine on demand, the Executive staff of the Association shall bring this to the attention of the Council, which may direct that the membership of the company in question be terminated, subject to the normal procedures relating to termination of membership of the Association.

All decisions of the Complaints Committee/Independent Complaints Panel will be published on the Association's website.

A schematic diagram of the complaint process is shown in figure 1.

COMPLAINTS PROCEDURE

FIGURE 1



### 6.3 COMPLAINTS COMMITTEE

The Complaints Committee shall consist of 3 members of the Council appointed by the Chief Executive of The Scotch Whisky Association and drawn from different member companies of the Association. Members of the Council who have an interest in a complaint shall not be eligible for appointment. Each member of the Committee shall have one vote.

### 6.4 INDEPENDENT COMPLAINTS PANEL

The Members and Chair of the Independent Complaints Panel shall be appointed by the Chief Executive of The Scotch Whisky Association and shall not include any person employed by The Scotch Whisky Association or by any of its Member Companies. The SWA Executive will however provide administrative support.

### 6.5 COMPETITION PROVISIO

The SWA and its member companies undertake that they shall not use the medium of this Code to engage in any acts or omissions (such as the exchange of sensitive trading information) which may breach applicable competition law.

### 6.6 COMPLAINTS and QUERIES

If you have any questions regarding this Code or the adherence of a particular Scotch Whisky marketing, promotional or advertising activity subject to the Code, please write to the Head of Alcohol Policy at The Scotch Whisky Association, or send an email to [complaints@swa.org.uk](mailto:complaints@swa.org.uk).