

Sale of Fireworks in Midlothian

Report by Rosie Kendall, Community Safety Manager

1 Purpose of Report

This report sets out the legal background to the use and sale of fireworks in the UK, and how the Council Motion, which agreed to ban the sale of Fireworks in Midlothian, could be implemented.

The report details the number of vendors with a licence to sell fireworks in Midlothian and includes information from the Police and Fire & Rescue services on the number of reported complaints about use of fireworks in a 12 month period.

2 Background

On the 15 December, 2015 Councillors approved a Motion to Council, requesting that an all party working group be established group to include Trading Standards, the Police and Fire Service to consider how to implement the banning the sale of fireworks to individuals, and to allow sales only to organised firework displays authorised and licensed by the Council. The motion suggested a bye-law is introduced banning the sale of fireworks in Midlothian.

This matter has been referred to the Community Safety and Justice Partnership Board for further consideration.

2.1 Legal Framework

The power to govern the use of Fireworks remains reserved to the UK Government and has not been devolved. The control of Fireworks in the UK is governed primarily by a range of legislation; Fireworks Act 2003, the Fireworks Regulations 2004, the Explosives Regulations 2014, the Pyrotechnic Articles (Safety) Regulations 2015, and British Standards BS 7114 and BS-EN 14035.

The general power in the Local Government (Scotland) Act to make bye-laws for the “good rule and governance and for the prevention and suppression of nuisances” cannot be used if the provision is covered by any other Act or Regulations. The sale of fireworks is specifically covered by the Fireworks Act 2003. There is however no specific power to make byelaws in the Fireworks Act 2003. Consequently, it is not legally competent for the Council to seek to make byelaws to control the sale or use of fireworks

2.2 Trading Standards

The Pyrotechnic Articles (Safety) Regulations 2015 defines 4 categories of fireworks – F1 to F4. Category F4 fireworks are for use solely by professional pyrotechnics companies (i.e. for professional displays). Category F1, F2 and

F3 fireworks are those that can be sold to the public by licensed retailers. To be able to sell fireworks, retailers must apply for a licence to store fireworks. Licences are generally renewed annually, but the legislation permits traders to apply for a longer licensed period, of up to 5 years. A licence allows the retailer to store for a year, or longer, but only sell between the following dates in the year: 15 October to 10 November and 26 to 31 December and also 3 days before Chinese New Year and Diwali. (NB. there is an all year 'selling' licence, but this is expensive and currently no Midlothian retailer has such a licence.)

For Trading Standards to consider refusing to grant a licence to store fireworks, an applicant would either have to have unsuitable storage facilities, or not be a fit and proper person, or both.

At present Midlothian has 11 retailers premises licensed to store and sell fireworks. These premises are located in Dalkeith (3), Loanhead (3), Penicuik (3), Gorebridge (1) and Lasswade (1). There are a further 2 premises with licences: Midlothian Council Trading Standards is licensed to allow storage of fireworks if products need to be seized for enforcement purposes; and a professional pyrotechnics company is also currently licensed.

One option to restrict the sale of fireworks would be to restrict the categories the public are able to purchase. As the Fireworks Act and Regulations have not been devolved, a request to extend these controls to categories 1 - 3 would have to be made to the UK Parliament through a petition by the Midlothian MP.

2.3 Community Safety Partnership – preventative work

Each year proactive preventative work by partnership agencies, including police and fire services, is carried out in the run up to Bonfire night. In 2015, this included:

- Multi agency visits to firework retailers involving local trading standards officers, Scottish Fire and Rescue Service and police arranged through the TACG (tactical and co-ordinating group) process.
- School Link Officers engaged with Head Teachers and were encouraged to spread preventative information to young people through assemblies and registration classes.
- Police Social Media sites were utilised to provide information and offer community safety advice throughout the period.
- 11 Community Policing Team officers were on duty over 1400-0000 hours on 5th November attending all calls relating to Guy Fawkes activities with two of those officers attached to Fire and Rescue at Dalkeith Fire Station.

2.4 Analysis of fireworks calls

Year	No. Firework Calls
2015	28
2014	16
2013	9
2012	20
2011	29

Despite poor weather conditions during this year's Halloween / Bonfire period there was a higher level of calls relating to the antisocial use of fireworks compared to previous years. Between 15 October and 7 November 2015 there were 28 calls made to police concerning fireworks, up from 16 the previous year and the three-year average figure (15 calls 2012-2014). Three bonfire calls were received by SFRS (Scottish Fire and Rescue Service) on the 5th November, one fewer than the previous year.

The majority of calls related to youths setting off fireworks in residential areas and local parks; Three calls were received by individuals reporting fireworks recklessly thrown at vehicles. Several calls related to sounds of fireworks in the local area in late evening in the week before and evenings after Guy Fawkes Night.

The highest number of fireworks calls was received the evening before Guy Fawkes Night. Only 1 call was received on Guy Fawkes Night itself and 3 the day after, with other calls received the week before the event.

The peak time for firework calls was in the evening between 19:00 and 21:00 hours.

3 Report Implications

3.1 Resource

This report has no resource implications

3.2 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- ☒ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child

- ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☐ Business transformation and Best Value
- ☐ None of the above

3.3 Key Priorities within the Single Midlothian Plan

Ensuring Midlothian is a safe place to live, work and visit

3.4 Adopting a Preventative Approach

Community Safety and partners adopt a preventative approach to the use of fireworks. They work closely with vendors, schools using a variety of media to promote a message of safe use of fireworks

3.8 Ensuring Equalities

This report has no equalities implications

4 Summary

The Acts which govern the sale and use of Fireworks are set by the UK Government therefore the request from council to introduce a Midlothian bye-law or alter the categories of sale would require a Local MP to petition Parliament.

5 Recommendations

The Police and Fire & Rescue Board is recommended to consider this report and determine whether further preventative measures are required.

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Background Papers: none