

## **Fireworks Enforcement 2016 – Storage and Test Purchasing**

### **Report by Ian Johnson, Head of Communities and Economy**

#### **1 Purpose of Report**

- 1.1** To provide an update to Cabinet on the enforcement of legislation relating to fireworks storage and test purchasing for under-age sales.

#### **1.2 Fireworks Storage**

It is the responsibility of Trading Standards' officers to enforce the legislation regarding the safe storage of fireworks by those retailers licensed to do so. Officers conduct inspections of licensed premises in October each year, often arranged jointly with either a Fire Safety Officer from the Scottish Fire and Rescue Service, or a Licensing Officer from Police Scotland.

#### **1.3 Fireworks Test Purchasing**

Resources permitting, officers will organise underage-sales test purchasing to check whether Midlothian's retailers' procedures, to prevent the sales of age-restricted goods, are working. The most usual test purchasing programmes arranged are for tobacco (cigarettes) and fireworks. Officers need to recruit volunteers to assist them in this task and for fireworks or tobacco test purchasing this means young people aged 16 to 16½ years old.

#### **2 Background**

##### **2.1 Legal Framework**

The safe storage of fireworks is governed by The Explosives Regulations 2014. Fireworks offered for sale in the UK, have to comply with The Pyrotechnic Articles (Safety) Regulations 2015, which govern the design and manufacture of fireworks and the labelling and marking of fireworks for sale to the public.

- 2.2** The Fireworks Act 2003, The Fireworks Regulations 2004 and The Fireworks (Scotland) Regulations 2004, are designed to tackle the anti-social and criminal use of fireworks. The Pyrotechnic Articles (Safety) Regulations 2015 provide the age-restriction on the sale of fireworks and the Consumer Protection Act 1987 provides the enforcement powers to a local weights and measures authority.

- 2.3** In addition to the duties and responsibilities carried out by Midlothian's Trading Standards Section, the Community Safety and Justice Partnership Board received a report entitled '*Promoting responsible use of fireworks and deterring antisocial fire raising*', in August 2016, from the

Council's Community Safety Manager. Part of that report referred to the routine work by Trading Standards relating to inspections of premises licensed to store fireworks and the number of fireworks retailers in Midlothian. That report also made certain recommendations, including that the Trading Standards section tries to recruit young volunteers to undertake test purchasing.

### **3 Current enforcement situation**

- 3.1** The number of retailers selling fireworks in Midlothian has reduced over the years. By the end of October 2016 there were 9 retailers licensed to store fireworks. In contrast, there were 22 premises on the list in 2011 and in 2008 there were 30 premises.
- 3.2** In October 2016, the 9 premises storing fireworks for retail sale were inspected jointly by a Trading Standards officer and an officer from the Scottish Fire and Rescue Service. Only minor non-compliances were discovered at 3 of the premises, mainly relating to the official warning notice not to sell to under 18s. No serious issues relating to the safety of the storage were found. Relevant advice was given and where required, new warning notices provided.
- 3.3** Trading Standards did not receive any complaints from the public regarding fireworks being let off by young people. It is known that Police Scotland and the Scottish Fire and Rescue Service did receive calls from the public, but it is believed that 2016 saw a reduction in calls from previous years.
- 3.4** A 16 year old female volunteer was recruited and trained to assist officers in conducting test purchases. Six premises were selected for visiting and the test purchasing was scheduled for 29<sup>th</sup> October 2016.
- 3.5** On the day, our volunteer attempted to purchase fireworks at three shops, none of which sold to her, asking her the correct questions, i.e. do you have any identity, how old are you etc. The fourth retailer however did unfortunately sell fireworks to our volunteer. Enforcement action has been taken and the seller is being reported to the Procurator Fiscal.
- 3.6** On completion of the test purchasing exercise, our volunteer was presented with a certificate and some vouchers, to thank her for assisting us in our duties.

### **4 Report Implications**

#### **4.1 Resource**

There are no major resource implications in doing this work. Routine inspection of trade premises is a vital part of the work of Trading Standards. Albeit sometimes difficult to arrange, test purchasing it is now an embedded part of Trading Standards' duties. Staff time is required to train volunteers and organise any test purchasing programme. All costs are met from within existing budgets.

## **4.2 Risk**

All trade premises in Midlothian which are subject to routine Trading Standards visits, are risk assessed. The vast majority can be visited by officers without concern. In addition, for test purchasing exercises and primarily due to the use of young volunteers, any premises selected for visiting are independently risk assessed to a greater degree and as officers are always watching the volunteers, when in their care, RIP(S)A surveillance authorisations are always sought for such exercises, as directed surveillance is employed whilst on trade premises. Before any volunteer finally agrees to assist Trading Standards, or is accepted, there is a meeting arranged with their parents and official documentation is signed. Nationally agreed guidelines on Test Purchasing are fully abided by.

## **4.3 Single Midlothian Plan and Business Transformation**

Themes addressed in this report:

Community safety

## **4.4 Key Priorities within the Single Midlothian Plan**

The storing and selling of fireworks (explosives) will remain a safety priority for Trading Standards, as long as there is a duty to enforce the relevant legislation. The safety of the community is therefore paramount and Trading Standards officers will always react as swiftly as possible if there are issues of fireworks' safety, which they enforce, brought to their attention.

## **4.5 Impact on Performance and Outcomes**

The fewer Midlothian retailers wishing to sell fireworks year on year suggests that selling fireworks is not worth it for some and indeed those retailers currently licensed are in the majority the large national supermarkets (8 out of 9, or 89%).

## **4.6 Adopting a Preventative Approach**

Trading Standards will continue its routine inspection programme and test purchase programme. Traders will always be offered advice and guidance on the legislation, when required, but should legislation be breached, appropriate action will be taken.

## **4.7 Involving Communities and Other Stakeholders**

During the fireworks' season, there is good and regular cooperation with Police Scotland and the Scottish Fire and Rescue Service in matters of Community Safety relating to fireworks. Trading Standards officers ensure that any warning notices required to be placed in retail premises for the attention of the public, are in place. Should there be the need to warn the public of unsafe or dangerous goods or practices relating to fireworks, various methods of communication would be adopted, including the Council's, the Police's and the Fire Service's social media.

## **4.8 Ensuring Equalities**

There are no implications, as a consequence of this report, regarding Equalities issues.

#### **4.9 Supporting Sustainable Development**

The annual inspection of licensed fireworks' retailers is conducted to ensure that those retailers are storing their stock of fireworks in a safe manner and that they have the appropriate procedures, risk assessments and staff training in place.

Conducting fireworks' test purchasing is a check on whether retailers have good policies, staff training, working procedures, controls and their own sanctions in place, to ensure that staff do not sell fireworks to young people under the age of 18.

#### **4.10 IT Issues**

There are no IT issues relating to this report.

### **5 Recommendations**

Cabinet are recommended to note:

- The work of Trading Standards in relation to the enforcement of fireworks legislation.

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