

**Fireworks (Scotland) Regulations 2004
Procedure for Disposal of Applications for Dispensation where there are
no objections or representations****Report by Eibhlin McHugh, Acting Director Communities and Wellbeing****1 Purpose of report**

This report asks members to consider that officers be given the authority to dispose of applications for dispensation from the prohibition of fireworks displays between 11pm and 7am, where no objections or representations are made.

The circumstances are as in the first report by the Acting Director, Communities and Wellbeing and as generally detailed in the 2009 report (see appendix) submitted by the then Director Strategic Services.

It should be noted that since the regulations came into force, Midlothian Council has received only three such applications for dispensation, including the application subject of the earlier report today by the Acting Director Communities and Wellbeing. Each of these applications was for a fireworks display as part of a wedding reception.

2 Procedure for disposal of applications

It is suggested, if the Committee agree, that officers from the Trading Standards Section consider and dispose of applications as follows:

- i) Only applications received within the timescale set by the Regulations, i.e. no later than six weeks prior to the proposed fireworks display, shall be considered.
- ii) All appropriate parties are to be consulted and shall include:
 - Local Councillor(s) for the area in which the proposed fireworks display would be held
 - Lothian and Borders Police
 - Lothian and Border Fire & Rescue Service
 - Scottish SPCA
 - Midlothian Council Environmental Health – Public Health
 - Other relevant Midlothian Council departments
 - Other local authorities
 - Any other potential interested parties
- iii) The proposed location for the fireworks display shall be visited.
- iv) A risk assessment shall be carried out, based on the application received and subsequent consultations.

- v) That if no objections are received, or representations made, officers proceed to approve the dispensation.
- vi) That if any objections are received, or representations made, officers shall report to Committee for them to consider the application and granting of dispensation.

3 Recommendation

The Committee is recommended that officers from the Trading Standards Section be authorised to grant dispensation from the prohibition of fireworks displays between the hours of 11pm and 7am, where no objections are received or representations made to the Council in relation to applications made.

4 Background and Appendix

Fireworks Act 2003

The Fireworks (Scotland) Regulations 2004

Appendix - Report to General Purposes Committee in 2009

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Appendix – Report to General Purposes Committee in 2009



General Purposes Committee
Tuesday 4 August 2009
Item No

Firework Displays – Dispensation from Prohibition

Report by Ian L Young, Director Strategic Services

1. Introduction

- 1.1 This report outlines the process that enables the local authority to grant dispensation permitting fireworks displays during the night hours (between 23.00 and 07.00).

2 Background

- 2.1 The Fireworks (Scotland) Regulations 2004 were introduced to minimise the risk that fireworks will be used with harmful consequences for people, animals or property and to prevent the increasing anti-social use of fireworks. The Regulations clarify when fireworks can and cannot be used.
- 2.2 The Regulations impose a ‘curfew’ on the use of fireworks between the hours of 23.00 and 07.00 throughout the year. There are however four annual ‘permitted fireworks’ nights’ where the use of fireworks is permitted for an extended period:

Chinese New Year
5th November
Diwali
Hogmanay

- 2.3 In summer 2008 Trading Standards received two applications for dispensation, the first Midlothian Council had received since the coming into force of the Regulations. One application was refused, the other voluntarily withdrawn. It was decided then that, at an appropriate time, the Committee be briefed on the Regulations.

3 Considerations

- 3.1 The Regulations allow local authorities to grant a dispensation which permits certain persons to put on a fireworks display in the course of their business, or at a national public event. The persons mentioned are professional organizers or operators of fireworks displays, Government Departments etc.
- 3.2 A local authority can grant dispensation if it is satisfied that there is no risk of death, injury or distress to the public, or animals and no risk of damage to property, or that any risks are kept to the very minimum.
- 3.3 Consideration must be given to the location of any proposed fireworks display and the proximity of neighbouring properties, working farms etc.

- 3.4 Any application for dispensation has to be made in writing and has to be received by the local authority no later than 6 weeks prior to the proposed fireworks display.
- 3.5 If the local authority does grant a person dispensation, it shall inform the applicant and inform the chief constable.
- 3.6 After receiving dispensation the applicant is required to publish a public notice indicating the intention to hold the fireworks display at least seven days before it is held, providing a description of the event and the location, date and time of the event.

4 Report Implications

4.1 Resources

There are no resource implications arising from this report.

4.2 Risk

There is always the inherent risk of injury etc. as a result of a fireworks display.

A local authority can only consider granting dispensation if it is satisfied that there is no risk that the use of fireworks will cause the:

- a) death of persons or injury, alarm, distress or anxiety to persons,
- b) death of animals or injury or distress to animals, and
- c) destruction of, or damage to, property,

or that any such risk is the minimum compatible with fireworks being used.

Trading Standards will carry out a risk assessment for each application. The assessment will be made available to the Committee.

4.3 Policy

Consultation

The Trading Standards Unit shall seek observations from the Police as part of their assessment.

Equalities:

There are no equality issues arising from this report.

Sustainability:

There are no sustainability issues arising from this report.

5 Recommendations

- 5.1 The Committee is recommended to consider this report in advance of receipt and determination of applications for extended periods for firework displays under the provisions of The Fireworks (Scotland) Regulations 2004.

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