

EAST AYRSHIRE COUNCIL

COMMUNITY SERVICES COMMITTEE – 6TH FEBRUARY 2002

STORAGE AND SALE OF FIREWORKS

Report by Director of Community Services

1. PURPOSE OF REPORT

- 1.1 To advise the Community Services Committee of the legal background and issues relating to the storage and sale of fireworks and suggest recommendations for possible improvements.

2. BACKGROUND

- 2.1 East Ayrshire Council have delegated to the Chief Constable, under the Scheme of Delegated Functions, the statutory responsibility for the administration of the Explosives Act 1875 and 1923 (as amended).
- 2.2 With regard to explosives, delegation takes the form of authorising the Chief Constable to discharge the Council's functions with respect to licensing, registration and regulation of stores or registered premises. Such authorisation is by virtue of Section 19 of the Health and Safety at Work, etc Act 1974.
- 2.3 The Explosives Act 1875 and 1923 (as amended) also control and regulate the storage and sale of fireworks, under the terms of a registration requirement for gunpowder and mixed explosives.
- 2.4 The Police presently enforce the provisions of the Explosives Acts 1875 and 1923 (as amended) in relation to explosives stores. The Fireworks (Safety) Regulations are enforced jointly by the Police and the Trading Standards Service. The department maintains an excellent relationship with Strathclyde Police and undertakes considerable joint working initiatives in respect of the storage and sale of fireworks.
- 2.5 Offences concerning fireworks can be summarised as:
- 2.5.1 Sales from premises not registered with the local authority;
- 2.5.2 Improper storage;
- 2.5.3 Sales to children apparently under the age of 18;
- 2.5.4 The supply of fireworks which do not conform to BS7114;
- 2.5.5 The improper supply of Category 4 fireworks.

- 2.6 The first two areas are dealt with by the Explosives Act 1875 and 1923 (as amended) and orders made thereunder and fall within the remit of the Police. The other three areas fall jointly within the remit of Police and Trading Standards Officers who are responsible for the enforcement of the Fireworks (Safety) Regulations 1997.
- 2.7 The question of the misuse of fireworks, e.g., throwing fireworks in the street or through letterboxes, are issues which fall within the remit of the Police.

3. DISCUSSION

- 3.1 Although a number of premises within East Ayrshire, such as quarry and mining operations, are licensed to store mixed explosives, no premises within East Ayrshire store a sufficient quantity of fireworks to require a licence under the Explosives Acts. The only requirement for any premises currently storing and selling fireworks within the area is that they register with East Ayrshire Council through the Community Services Department Licensing and Community Safety Service. Upon receipt of a duly completed application form and payment of the appropriate fee the applicant is entitled to be registered and there are no grounds for refusal or withdrawal of registration at present.
- 3.2 Under a Voluntary Code Of Practice, the fireworks industry has agreed that fireworks should only be on general sale to public for the three weeks leading up to the 5th November and a few days thereafter. In addition, the Code permits fireworks to be displayed for sale between December 9th and 1st January.
- 3.3 It should be noted that this is a national voluntary code and it is not unlawful to store and sell fireworks from registered premises at any time throughout the year.
- 3.4 Category 4 (professional fireworks) are permitted only to be sold to competent persons such as organisers or operators of fireworks displays including persons purchasing on behalf of a local authority for use by that authority at a national public celebration or a national commemorative event.
- 3.5 Improper storage and sale of fireworks to underage persons within East Ayrshire is not recognised as a problematic issue. Trading Standards Officers and Police routinely visit all registered premises in October to advise traders of their responsibilities in respect of storage and sale of fireworks.
- 3.6 In practice, children who are found in possession of fireworks appear to have been supplied with the products by elder friends or relatives who have been entitled to purchase them, in accordance with the law.
- 3.7 Air bombs have become a particular nuisance in recent years. Air bombs are in effect very loud bangers. Although the sale of bangers is proscribed, air bombs are classified under BS7114 as single shot roman candles which can produce visual and/or aural effects. Therefore even if air bombs only produce a bang, provided the bang is remote from the firework case, they are classified as a roman candles and not bangers

- 3.8 Opinions differ as to whether the sale and use of fireworks should be further restricted or totally banned, on the grounds of public safety. Any further constraints on the storage and sale of fireworks would require legislation.
- 3.9 Elected Members and Council Officials have received a considerable number of complaints about the nuisance caused by very loud fireworks being set off at all hours of the day e.g. 2 am and over an extended period far in excess of those limits agreed under the Voluntary Code of Practice. Such complaints have been raised at Councillor's Surgeries; Community Councils and meetings of the Local Committees. The level of complaint has resulted in significant coverage in the local press.
- 3.10 The East Ayrshire Community Safety Forum has developed and distributed a guidance package on the safe use of fireworks.

4. FINANCIAL IMPLICATIONS

- 4.1 Nil.

5. LEGAL IMPLICATIONS

- 5.1 East Ayrshire Council has delegated its responsibility for the enforcement of the Fireworks (Safety) Regulations 1997 to the Community Services Department, enforcement of which is carried out by the Trading Standards Service working in partnership with Strathclyde Police.

6. POLICY IMPLICATIONS

- 6.1 Nil.

7. CONCLUSIONS

- 7.1 The Community Services Department through its Licensing and Community Safety Service conduct the registration of premises in respect of the storage and sale of fireworks and through its Trading Standards Service enforce the requirements of the Fireworks (Safety) Regulations 1997.
- 7.2 The level of complaints received indicate a need for further constraints, indeed even a complete ban on the sale of fireworks to the general public and the use of fireworks restricted to properly organised public displays. A number of local authorities have already made representations to Cosla to have the legislation amended.

8. RECOMMENDATIONS

- 8.1 It is recommended that the Committee:
- (i) Note the work already undertaken to implement the statutory and voluntary controls on the storage and sale of fireworks;
 - (ii) Remit to the Director of Community Services to write to Cosla, local MPs and MSPs recommending the introduction of a ban on the sale of fireworks to the

general public and the introduction of a licensing scheme for public fireworks displays; and

(iii) otherwise note this report.

W Stafford
Director of Community Services

WS/JD/SD

14th January 2002

LIST OF BACKGROUND PAPERS

Nil

Implementation Officer – john.crawford@east-ayrshire.gov.uk

AGENDA