

**To: Communities, Housing and Planning Policy Board**

**On: 17 August 2021**

---

**Report by: Director of Communities and Housing**

---

**Heading: Consultation on (1) The Introduction of New Legislation on the Sale and Use of Fireworks in Scotland, and (2) Tackling the Misuse of Pyrotechnics**

---

## **1. Summary**

- 1.1 In November 2018, and in response to growing public concern around fireworks, Ash Denham MSP, Minister for Community Safety announced the intention of the Scottish Government to hold a public consultation on the sale and use of these products in Scotland. The legislative landscape relating to fireworks is complex, with legislation relating to the sale of fireworks being reserved to Westminster, but the Scottish Government having the power to legislate around the use of fireworks in Scotland.
- 1.2 In February 2019, a 14 week “Consultation on Fireworks in Scotland: Your experiences, your ideas, your views” commenced; with views gathered through a variety of methods. The findings of the consultation were published in October 2019, alongside the Scottish Government’s “Fireworks Action Plan”; detailing actions to ensure that all possible avenues were considered to ensure the safe and proper use of fireworks. The Action Plan provides a holistic approach for tackling any perceived harms, alongside recommendations for tightened controls on the use of these products.
- 1.3 A cross-cutting short-life “Fireworks Review Group” was subsequently convened to consider opportunities for legislative change, with the final report detailing options for both short term and long term increases in controls. In November 2020, this report was presented to Parliament by Ash Denham MSP, Minister for Community Safety who also confirmed her intention to bring forward legislation to implement the proposals for change.
- 1.4 Some short-term proposals were implemented on 30 June 2021 by secondary legislation. The Fireworks (Scotland) Regulations 2004 (“the 2004 Regulations”) are now amended by The Fireworks (Scotland) Miscellaneous Amendments Regulations 2021. The amendments include:

- clarification of the definition of a “public fireworks display”, meaning a fireworks display at which the public, or any section of the public, are present, whether or not they have paid to be,
- a reduction of permitted hours for the general use of consumer fireworks to between 18.00 and 23.00 daily. The times of day that fireworks can be used on nights of wider celebration (e.g. Guy Fawkes, Hogmanay) remain unchanged,
- a new prohibition of the supply of consumer fireworks outside permitted hours, which will now be between 07.00am and 18.00pm, and
- a new prohibition of the supply of more than 5kg (net explosive value) of consumer fireworks to any person, at any one time.

1.5 Longer term, more hard-hitting proposals, will require a change to primary legislation. In late June 2021, the Scottish Government launched a consultation on new proposals for primary legislation which they are hoping will introduce more wide-ranging and holistic controls on both consumer fireworks as well as pyrotechnic articles (smoke bombs, distress flares etc). The proposed controls include:

- requiring the general public and community groups to meet a number of mandatory conditions before they are able to purchase consumer fireworks
- restricting both the days fireworks can be set off by the general public, and the days fireworks can be sold to the general public
- introducing community-led “no-fireworks areas”, where it is not permitted for the general public to set fireworks off
- introducing a proxy-purchasing offence for the supply of fireworks to people under the age of 18
- a new definition of pyrotechnic article, to better distinguish from consumer fireworks
- a proposed new offence for possession of a pyrotechnic article in a public place without reasonable excuse, and
- new powers for the Police to allow stop and search of persons and vehicles, for pyrotechnic articles only (not fireworks).

1.6 The proposed consultation response attached as Appendix 1 includes views from relevant professional officers including Trading Standards and Licensing, Environmental Health and Community Safety. Overall, the response is supportive of the additional primary legislation and controls that are being proposed and confirms the view that these will enhance the ability of regulators and Police Scotland to control the use and sale of fireworks and pyrotechnic articles in ways that align with and support feedback that has been received locally from our communities.

- 1.7 In one area the response suggests that the proposed control would not be of assistance and should be reconsidered or deferred. The introduction of “no fireworks control areas” is not currently viewed as a viable and enforceable option for the control of fireworks in domestic settings. The aim of these areas would be to prevent noise nuisance and distress. Unfortunately, noise cannot be limited by geographic area. You could therefore have a situation where a No Firework Area borders with one which is uncontrolled, and this nullifies any effect. In addition, Police Scotland would need to witness a “live” breach to be able to take enforcement action which would be unlikely due to the short timescale of most domestic displays and the requirement to balance these calls with other priority responses. This is a high resource, low impact option, which the proposed response should be paused until the effect of the other proposals has bedded in and been evaluated.
- 1.8 When considering the draft response it should be noted that Section 2 of the consultation relates to Pyrotechnic Articles and that the enforcement proposals and powers would lie entirely with Police Scotland.
- 

## **2. Recommendations**

- 2.1 It is recommended that Members of the Communities Housing and Planning Policy Board agree the draft response to the consultation, included as Appendix 1 to this report for submission to the Scottish Government.
- 

## **3. Background**

- 3.1 Trading Standards within Communities & Public Protection are the competent authority for the majority of controls on the sale and supply of fireworks. Partners in Police Scotland, Environmental Health and Licensing in Legal Services are also involved in various controls over the use of these products. The legislative landscape relating to fireworks is complex, with much of the legislation reserved to Westminster. A table summarising these responsibilities has been included for information as Appendix 2 to this report.
- 3.2 In February 2019, the Scottish Government commenced a 14 week “Consultation on Fireworks in Scotland: Your experiences, your ideas, your views”. The consultation was held to gauge public opinion on whether further regulatory controls were required, or whether any potential concerns could be addressed by raising awareness to effect culture change. The consultation was highlighted to Elected Members at the time through a Briefing Note (attached as Appendix 3 to this report) which also highlighted the local consultation event being held in Paisley in April 2019. This consultation event was attended by representatives from Trading Standards, Environmental Health and Community Safety, as well as a number of representatives from Police Scotland, Scottish Fire & Rescue Service and other key Community Groups.

3.3 A full analysis of the public consultation was published by the Scottish Government in October 2019. Over 16,000 responses had been received, with key findings including:

- 94% of respondents thought there should be more control over the sale of fireworks
- 92% thought there should be more control over the use of fireworks
- 70% reported having been affected by fireworks being used in an unsafe or irresponsible way

<https://www.gov.scot/publications/consultation-fireworks-scotland-experiences-ideas-views-analysis-responses-public-consultation-exercise/>

3.4 In response to the concerns raised by the consultation, the Scottish Government published their “Fireworks Action Plan”. The Plan details a suite of actions designed to provide a holistic approach to controlling the safe sale and use of fireworks in Scotland. Themes include:

- Awareness raising and communication,
- Support to publicly organised displays,
- Continued research to assess the issue, and
- Legislative change where possible.

<https://www.gov.scot/publications/fireworks-action-plan-promoting-safe-appropriate-use-fireworks-scotland/>

3.5 A cross-cutting short-life “Fireworks Review Group” was convened by the Scottish Government to consider opportunities for legislative change, with the final report published in November 2020. Key recommendations for consideration include:

- Mandatory conditions for buyers of fireworks,
- Better restriction on the days and times when fireworks can be used,
- Consideration of community-led “no fireworks zones”,
- Introduction of a proxy purchasing offence for under 18s,
- Monitoring of impact, to inform future controls, and
- Proper resourcing of the above.

<https://www.gov.scot/publications/firework-review-group-terms-of-reference/>

<https://www.gov.scot/publications/firework-review-group-report-scottish-government/>

3.6 In her update to Parliament in November 2020, Ash Denham MSP, Minister for Community Safety confirmed her intention to bring forward legislative change, including primary legislation following the Scottish Parliament Elections in May 2021.

---

## Implications of the Report

1. **Financial** - none.
2. **HR & Organisational Development** - none.
3. **Community Planning** – none.
4. **Legal** - none.
5. **Property/Assets** - none.
6. **Information Technology** - none.
7. **Equality & Human Rights** -  

(a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** - none.
9. **Procurement** - none.
10. **Risk** – none
11. **Privacy Impact** – the proposed new work will not require the Council to gather any additional personal or sensitive data, than that which is already gathered in the course of their normal functions.
12. **COSLA Policy Position** - none
13. **Climate Risk** - none

---

## List of Background Papers

- (a) Briefing note for elected members dated April 2019, subject: Consultation on Fireworks in Scotland: your experiences, your ideas, your views
- 

*Author:* Oliver Reid, Head of Communities and Public Protection



## A Consultation on

1. the introduction of new legislation on the sale and use of fireworks in Scotland, and
2. tackling the misuse of pyrotechnics

### Questionnaire

## Section One: Fireworks

### Part One: Mandatory conditions at point of sale

#### Question 1 a).

Do you agree that a fireworks licensing system should be introduced in Scotland?

- Yes  
 No  
 Unsure

#### Question 1 b).

Please explain your answer.

Renfrewshire Council would be strongly in favour of a licensing system which increases personal accountability for and controls over the use of consumer fireworks.

#### Question 2 a).

Do you agree that any licensing system should cover the possession and use of fireworks, in addition to their purchase?

- Yes  
 No  
 Unsure

#### Question 2 b).

Please explain your answer.

Covering both possession and use makes sense, as it's the possession and use that hold more risk than simply the purchase. It would make no sense to introduce a system whereby the person with a purchasing licence (and who has therefore undertaken the proposed training) is not the end user of the product.

#### Question 3a).

Do you agree that a fee to obtain a fireworks licence in Scotland should be introduced?

- Yes  
 No  
 Unsure

**Question 3 b).**

Please explain your answer.

A fee is likely to make people think more carefully about their purchase and need for a fireworks license and reduce the overall number of people licensed and able to purchase and use fireworks.

**Question 4 a).**

Do you have any views on how much the licence fee should be?

- Yes
- No
- Unsure

**Question 4 b).**

Please tell us your views on how much the licence fee should be.

**Question 5 a).**

The fee should be based on cost recovery initially and should be set by statute on a national basis to prevent local variation.

Do you agree that successful completion of an online safety course to obtain a fireworks licence in Scotland should be introduced?

- Yes
- No
- Unsure

**Question 5 b).**

Please explain your answer.

Safety training will focus the mind of purchasers/users, as it's very easy to become complacent to products with an inherent risk over time.

**Question 6 a).**

Who do you think would be best placed to run and administer the proposed licensing system?

- Option One: Scottish Government
- Option Two: National public service organisation or partnership organisation
- Option Three: Local authorities
- Other

**Question 6 b).**

Please explain your answer.

Scottish Government should provide the necessary level of oversight. This would also be consistent with other "people-based" systems owned and administered by Scottish Government such as the Landlord Registration system.

**Question 7.** Please tell us if you have any other comments on the introduction of a licensing system and the proposed process for how the licensing system would be implemented and managed.

The proposal to introduce an offence for sellers to sell to persons without a valid licence would be beneficial. It would make sense that this was administered by the Local Authority (Local Weights & Measures Authority/Trading Standards).

Consideration should be given to the length of time a license is valid for - with a requirement to renew and repeat relevant update training on a regular basis.

## Part Two: Restrict the days fireworks can be sold and set off

### Question 8 a).

Do you agree with the proposed restrictions on the days fireworks can be **used** by the general public?

- Yes  
 No  
 Unsure

### Question 8 b).

Please explain your answer.

On a personal and professional level, we can see no reason to permit the use of consumer fireworks by the general public every day, as is currently permitted. The recent rise in the use of fireworks during football celebrations in particular, has been concerning. The distress caused by unexpected noise can be somewhat mitigated against, in a narrower window for use.

### Question 9 a).

Do you agree with the proposed restrictions on the days fireworks can be **sold** to the general public?

- Yes  
 No  
 Unsure

### Question 9b).

Please explain your answer

The proposal reconfigures the “permitted periods” for sellers with a Storage Licence, as well as tying those sellers with a Year-Round Licence to those same dates only (for Scottish sales). The reduction of the Guy Fawkes period, in particular, means a smaller window for unplanned and therefore potentially risky home displays. It also makes it much less likely that “pop-up” shops will appear - which are of concern due to their temporary nature.

## Part Three: No-Firework Areas

**Question 10 a).** Do you agree with the introduction of no-firework areas?

- Yes
- No
- Unsure

**Question 10b).**

Please explain your answer

We do not believe these are a viable and enforceable option for the control of fireworks in domestic settings at this time. The aim of these areas would be to prevent noise nuisance and distress. Unfortunately, noise cannot be limited by area. You could therefore have a situation where a No Firework Area borders with one which is uncontrolled, and this nullifies any effect. These areas will also over-burden an already stretched Police Scotland service who will have to balance the enforcement of this with other priorities. Police Scotland would need to witness a “live” breach to be able to take enforcement action which would be unlikely due to the short timescale of most domestic displays. This is a high resource, low impact option, which should be paused until the effect of the other proposals has bedded in and been evaluated.

**Question 11 a).** Do you agree that consideration, introduction and management of no-firework areas should be led by local authorities?

- Yes
- No
- Unsure

**Question 11 b).**

Please explain your answer.

No. If the proposals are to continue as stated, it would make more sense for Police Scotland, as the relevant enforcement authority, to set up and administer these Areas as an organisation with a national remit. Noise cannot be limited by Council area and in some environments the impact of noise within one Council area is felt more by residents of another area than by the residents of the Council that would have the control and oversight powers and responsibility. You could therefore have a situation where a Council is receiving requests to remove or act on a noise nuisance but has no direct power to act in the area causing the disturbance.

**Question 12.**

Please tell us if you have any comments in relation to how communities can be actively involved in considering the feasibility and introduction of no firework areas, and the decision to introduce these.

The routes to involve communities would vary across Scotland – in Renfrewshire the Local Area Partnerships would be a good route for the active involvement of communities as well as constituted community organisations and groups such as Community Councils – the issue however, is that the Areas themselves are not a reasonable proposal as set out in Questions 10 and 11.

### Question 13.

Please tell us if you have any comments on the proposed process for how no-firework areas would be implemented, managed and reviewed.

Previous experience in relation to similar initiatives (cold calling control zones), as well as the detail of the process in the paper show that this would be hugely resource intensive, for what is likely to be very little gain. Control areas of this type tend to raise the expectation of members of the community that any and all breaches – in this case, the use of fireworks - constitute an enforceable offence. Under these proposals, organised displays are not controlled by these areas – this is a very mixed message. Police Scotland’s tasking model requires them to witness a “live” breach in order to take enforcement action. This would require Police to either prioritise these matters over other criminality, or else leave as lower priority which means a breach cannot be evidenced. This is likely to cause as much distress amongst residents as the fireworks themselves. Relationships with the community will be liable to fracture as these areas fail.

### Question 14.

Please tell us if you have any comments in relation to the enforcement of no-firework areas.

The other proposals in the paper should be allowed time to bed in before considering further extension. These proposals may well have a significant effect, which would negate the need for a high resource/low impact solution such as these Areas.

**Question 15.** Please tell us if there are any other issues you think need to be considered in relation to no-fireworks areas.

The other proposals in the paper should be allowed time to bed in before considering the need for any further extension. Should the other proposals work as intended it is likely that they will have a significant effect, which would negate the need for a high resource/low impact solution such as the development of no Fireworks Areas.

## Part Four: Proxy Purchasing Offence

### Question 16 a).

Do you agree with the introduction of a 'proxy purchasing' offence in relation to fireworks to criminalise the supply of fireworks to young people under the age of 18?

- Yes
- No
- Unsure

**Question 16 b).**

Please explain your answer.

Renfrewshire has never had a substantiated test purchase to a person under the age of 18 in the area. The Council does however, receive complaints about people under 18 misusing these products. Logically therefore, proxy purchasing must be taking place.

The Council would support any efforts to standardise provisions such as these across all age-restricted products.

**Question 17.**

Please tell us if you have any other comments on section one of the consultation that have not been covered by the other questions.

No further comment.

## Part 5: Impact Assessments

**Question 18 a)**

Do you have any comments about, or evidence relevant to the draft Business And Regulatory Impact Assessment in relation to the sale and use of fireworks?

- Yes
- No
- Unsure

**Question 18 b).**

Please explain your answer.

No further comment.

**Question 19 a).**

Do you have any comments about, or evidence relevant to the draft Equality Impact Assessment in relation to the sale and use of fireworks?

- Yes
- No
- Unsure

**Question 19 b).**

Please explain your answer.

No further comment.

## Section Two: Pyrotechnics

### Question 20 a).

Do you have concerns about pyrotechnic devices being misused?

- Yes  
 No  
 Unsure

### Question 20 b).

Please explain your answer.

The misuse of explosive or pyrotechnic devices would always be of concern in relation to public and individual safety and security. The Council supports additional controls including legislation and enforcement powers for Police Scotland that would reduce the risk of misuse of these products.

### Question 21 a).

Do you agree with the introduction of a new offence for being in possession of a pyrotechnic in a public place without reasonable excuse or lawful authority?

- Yes  
 No  
 Unsure

### Question 21 b).

Please explain your answer

The misuse of explosive or pyrotechnic devices would always be of concern in relation to public and individual safety and security. The Council supports additional controls including legislation and enforcement powers for Police Scotland that would reduce the risk of misuse of these products.

### Question 22 a).

Do you agree that police stop and search powers should be extended to allow the police to stop and search where there is reasonable suspicion that an individual is in possession of a pyrotechnic device in a public place without a reasonable excuse?

- Yes  
 No  
 Unsure

### Question 22 b).

Please explain your answer

The misuse of explosive or pyrotechnic devices would always be of concern in relation to public and individual safety and security. The Council supports additional controls including legislation and enforcement powers for Police Scotland that would reduce the risk of misuse of these products.

**Question 22 c).**

Please tell us what you consider would be a reasonable excuse for possessing pyrotechnics in a public place?

For use for their intended and evidenced purpose e.g. theatre, distress signals.

**Question 23 a).**

Do you think that police stop and search powers should be wide enough to the extent that it would allow the police to stop and search a vehicle, for example a car, bus, van or tram, where there is reasonable suspicion that there are pyrotechnic devices contained without a reasonable excuse?

- Yes
- No
- Unsure

**Question 23 b).**

Please explain your answer.

The misuse of explosive or pyrotechnic devices would always be of concern in relation to public and individual safety and security. The Council supports additional controls including legislation and enforcement powers for Police Scotland that would reduce the risk of misuse of these products.

**Question 24.**

The Scottish Government recognises that legislation on its own may not end the misuse of pyrotechnic devices. Please tell us if there are other actions you think that the Scottish Government could take to address this issue.

No further comment.

**Question 25.**

Please tell us if you have any other comments in relation to pyrotechnics that are not covered by the other questions in this section of the consultation.

No further comment.

**Question 26 a)**

Do you have any comments about, or evidence relevant to the draft Business And Regulatory Impact Assessment in relation to pyrotechnics?

- Yes
- No
- Unsure

**Question 26 b).**

Please explain your answer.

No further comment.

**Question 27 a).**

Do you have any comments about, or evidence relevant to the draft Equality Impact Assessment in relation to pyrotechnics?

- Yes
- No
- Unsure

**Question 27 b).**

Please explain your answer.

No further comment.

Enforcing Authority	Type of control	Legislation
Trading Standards/ Local Authorities	Safety of fireworks – construction, markings and packaging  Safety of products at point of importation  Fireworks storage Registration  Safety of fireworks storage  Supply of fireworks during the “permitted period”  Year-round sales Licensing  Restriction of sale/supply to persons under 18  Restriction of categories of fireworks to certain persons  Prevention of hawking or sale of fireworks in a public place  Dispensation for use of fireworks outwith “curfew” times	  Pyrotechnic Articles (Safety) Regulations 2015  Explosives Regulations 2014  Regulation on Accreditation & Market Surveillance (RAMS) 765/2008  Fireworks Regulations 2004  Pyrotechnic Articles (Safety) Regulations 2015  Explosives Act 1875  Fireworks (Scotland) Regulations 2004
Environmental Health/ Local Authorities	Excessive noise as statutory nuisance	Environmental Protection Act
Legal Services - Licensing/ Local Authorities	Public Entertainment licence for organised fireworks displays	Civic Government (Scotland) Act 1982
Police Scotland	Curfew on use of fireworks between 11pm – 7am (midnight on Guy Fawkes and 1am at Hogmanay, Diwali and Chinese New Year)  Prevention of use of fireworks in a public place  Prevention of possession of fireworks by a person under 18 in a public place	  Fireworks (Scotland) Regulations 2004  Explosives Act 1875  Fireworks Act 2003

**Renfrewshire Council**  
**Communities, Housing & Planning Services**

**BRIEFING NOTE FOR ELECTED MEMBERS**

**Subject:           CONSULTATION ON FIREWORKS IN SCOTLAND: YOUR EXPERIENCES,  
YOUR IDEAS, YOUR VIEWS**

**Date:               4 APRIL 2019**

---

**SUMMARY**

Communities & Public Protection within Communities, Housing & Planning Services are actively involved in the regulation of the sale and use of fireworks.

This service has been made aware of a Scottish Government Public Consultation which is seeking views on potential changes to the existing regulatory regime. Members may wish to highlight this consultation to their constituents or take part directly in the consultation process.

**KEY POINTS**

- There are growing concerns that while fireworks can be entertaining if enjoyed in a carefully controlled setting, they can also pose a serious safety risk if not handled correctly.
- Animals and people can also be subjected to disturbance and emotional distress as a result of the noise from these products.
- Most existing legislation is reserved to Westminster; however Scottish Government have opened a public consultation to gather information and views from people across Scotland to allow them to consider whether there are any changes that can be made within the existing legislative framework.
- This report seeks to highlight this public consultation exercise, and to provide background information for Members who may consider submitting collated responses on behalf of their communities.
- The consultation is open until 13 May 2019 and can be accessed online at <https://consult.gov.scot/safer-communities/fireworks/>.
- The consultation is mainly seeking views from the general public on attitudes to fireworks at this time. It is likely that a full regulatory consultation will be launched if legislation is later considered.
- Scottish Government has advised that consultation events will be held in Paisley on 18 April 2019.

**RECOMMENDATIONS**

- For Members' information,
- For Members' consideration in relation to the submission of responses on behalf of their communities, and
- For Members to consider attendance at any local consultation events (details to follow).

**BACKGROUND**

Communities, Housing & Planning Services', Trading Standards & Licensing Team are responsible for enforcing the provisions of a range of consumer protection legislation in the Renfrewshire area. The Team are responsible for the licensing of fireworks storage premises in Renfrewshire. All premises who wish to store fireworks must hold a licence prior to taking delivery of stock.

There are two types of licence – a storage licence, which allows retailers to sell fireworks at certain times of the year only; and a year-round supply licence which allows supply at any time. The latter is usually only sought by suppliers of large-scale fireworks display organisers.

Premises with a storage licence are permitted to supply fireworks over the Guy Fawkes period (15 October to 10 November), Chinese New Year, Diwali (and 3 days prior to those dates), and New Year (26 December to 31 December) only. Supply outwith these periods is a criminal offence. There are no restrictions on the hours of sale, and no restriction can be placed on this in terms of current legislation.

Fireworks storage is inspected by Officers from the Trading Standards & Licensing Team to ensure compliance. This is undertaken prior to issuing licences in the case of a new application; or during the selling period in the case of renewal applications where no changes to storage arrangements are noted. A licence application cannot be refused other than on grounds of prior unsafe storage. Unsafe storage will depend on the circumstances.

Fireworks can be set off on any date of the year. There are controls however on the hours in which these can be set off, which are enforced by Police Scotland. It is an offence to set off fireworks between 11pm - 7am (12am on Guy Fawkes and 1am on Hogmanay, Chinese New Year and Diwali).

It is an offence to set off or throw fireworks in a public place and this is also enforced by Police Scotland. Issues relating to noise and misuse of fireworks are usually raised by calling Police Scotland on 101, or by raising the matter at Daily Tasking at the Community Safety Partnership Hub who make disposals to all relevant services. The Environmental Improvements Team are normally tasked with any fireworks related noise complaints, however, noise which is of a transient nature would not be a matter which can be addressed through current statutory nuisance provisions.

In addition to the above enforcement functions, the Community Safety service work with partners in Scottish Fire & Rescue to provide educational safety talks to high school pupils in the lead up to Bonfire night. These talks promote attendance at organised displays as being the safest way to enjoy fireworks.

Author: Faye Wilson, Trading Standards & Licensing Manager

E-mail: [faye.wilson@renfrewshire.gov.uk](mailto:faye.wilson@renfrewshire.gov.uk)