

Report to the Tyne and Wear Trading Standards Joint Committee

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Proposal to ban the retail sale of fireworks

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Purpose of the report

In response to the request made by Councillor Nick Kemp Cabinet Member for Neighbourhood and Regulatory Services from Newcastle City Council; the following report outlines a range of options in order to progress the possibility of introducing a ban on the retail sale of fireworks.

The Background

1. Councillor Kemp's view is that on behalf of himself and his colleagues and the residents they are elected to represent, he expresses a great deal of disappointment, with the negative response received from the Petitions Committee and the Government to the 147,702 individuals who signed the recent petition which requested that Government look towards banning the retail sale of fireworks.
2. Councillor Kemp's view is that every year we continue to see individuals using fireworks irresponsibly and the consequence of this is that often damage to property, harm to animals or at its worst life changing and life threatening injuries to people. In Newcastle during the lead up to the 5 November 2016, three vehicles were destroyed after been lit by a firework.

The Current Legislative position with Fireworks

3. **The Pyrotechnic Articles (Safety) Regulations 2015:** Sets out the various safety provisions around the categories of fireworks and the obligations placed on manufacturers, importers and distributors. The Regulations also details the prohibition relating to the supply of fireworks to those under the age of 18.
4. **The Explosives Regulations 2014:** Makes it a requirement that anyone wishing to keep fireworks shall register their name with the Tyne and Wear Fire and Rescue Service. The annual registration is on payment of a statutory fee. Officers visit premises seeking registration to ensure full compliance with the strict requirements around storage of fireworks.
5. **The Fireworks Regulations 2004:** Various provisions of the Fireworks Regulations are enforced by Trading Standards Officers, Police Officers and Environmental Health Officers:
 - Police Officers: Enforce the provisions that prohibit any person under 18 possessing an adult firework (excluding 'throw-downs') in a public place.

- Environmental Health Officers: Enforce the provisions that prohibit the use of fireworks during a period beginning at 11pm and ending at 7am “fireworks nights” including the 5 November and Chinese New Year
- Trading Standards Officers: Enforce the provisions that relate to the display of statutory notices, when retailers supply fireworks.

The Government's view on the Sale of Fireworks 2016

6. The understanding is that Government has always taken the general view that the sale of fireworks to ordinary consumers, is better controlled and licensed. The general view is that this licensing regime permits and regulates the market and that if fireworks were banned; there would be a strong and distinct possibility that individuals will experiment with garden chemicals and the like, with potential disastrous effects to themselves and others when these experiments go wrong.

Petition Ban the sale of fireworks to the public and only approve organised displays. (November 2016)

Every year 1000's of people are hurt, burnt, maimed and even lose their lives through accidents involving fireworks. Every year people are terrorised by the misuse of fireworks. Every year animals are hurt and traumatised by fireworks. Ban them please. **147,702 signatures** Parliament considers all petitions that get more than 100,000 signatures for a debate.

Government responded

7. *The government recognises the concerns raised about the use of fireworks by the public, particularly the potential distress caused by the use of noisy fireworks to pets, livestock and the public, and injuries caused by accidents and the misuse of fireworks.*
8. *Many individuals enjoy being able to hold private fireworks displays at home, and have a sensible and responsible attitude to their use. Indeed, the majority of the public who use fireworks do so in a safe and considerate way; it is only an anti-social minority that uses them dangerously and inconsiderately.*
- While members of the public can hold private firework displays at any time of the year, they are subject to strict curfews which prevent fireworks being used after 11pm, except on a limited number of specific nights of the year around the traditional celebrations of 5th November, New Year, Chinese New Year and Diwali when they can be used up to midnight (5th November) or 1am (New Year, Chinese New Year and Diwali).*

Options for Change

9. Without direct Government intervention, local intervention could take a number of forms. These would include.
10. A voluntary ban requesting on behalf of the five local authorities under the auspices of the Joint Committee that the various retailers would refrain from selling fireworks to the ordinary consumer. The main difficulty would be the strong possibility that the main retailers licensed to sell fireworks, would be very unlikely to accept their social responsibility and agree to refrain from selling fireworks. They would probably cite their responsible retailing of a legitimate

product. They would also argue that any potential ban would be a potential conflict with their ability to be competitive and a potential restraint on trade in the region.

11. A compulsory ban that the various retailers would stop selling fireworks to the ordinary consumer. This ban could be actioned through a local byelaw either taken through a devolved power received from Government under any future devolved agreement. The main difficulty would be the strong possibility that the main retailers licensed to sell fireworks would be very unlikely to accept their social responsibility and agree to refrain from selling fireworks. Affected retailers would probably cite their responsible retailing of a legitimate product. They would also argue that any ban would be a potential conflict with their ability to be competitive and a potential restraint on trade in the region. Based on the primacy of large national retailers in the retail sale of fireworks, resistance, potentially through the engagement of the judicial process may indeed be significant.
12. Individual action taken by the Tyne and Wear Fire and Rescue service. Where evidence emerged that a particular retailer was not prepared to fully comply with the legislative requirements on storage or similar, the Fire service may be in a position to refuse to licence a problematic retailer.
13. Individual action taken by a local authority under the provisions of the Anti-social Behaviour, Crime and Policing Act 2014 in respect of the use of community protection notices (CPN). CPN's are intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible.
14. In many areas, councils already take the lead in dealing with these kinds of issues and they will continue to be able to issue the new notice. However, the move towards neighbourhood policing and community safety teams in recent years has seen the police take a more active role in dealing with these issues, working with councils, and so police officers and police community support officers will also be able to issue CPNs.
15. The test is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A CPN can be issued by one of the bodies above if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation:
 - is having a detrimental effect on the quality of life of those in the locality;
 - is persistent or continuing in nature; and
 - is unreasonable.
16. Again it could be foreseen that evidence would have to be established to prove that a particular retail outlet was responsible for the sale of fireworks that were directly attributable to the ASB in a specific area.
17. It may be the case that in light of the recent petition, a letter of concern directed from the Committee to the Secretary of State, Greg Clark at BEIS may assist in highlighting the concerns of elected Members.

Recommendation

18. The Committee is asked to note the information and action if Members feel it is appropriate.

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