

MEMBER BRIEFING NOTE: FIREWORKS

Reason for the Report

1. To provide Members with information on fireworks, the challenges that they present, details of existing reports and suggested actions for better management of the problem. This information will support Member discussion to determine if the topic needs to be included on the Environmental Scrutiny Committee forward work programme.

Background Information

2. Despite annual safety warnings, firework celebrations still end in painful injuries for too many people, including very young children. Yet fireworks can be great fun for families, not just around November 5 (Bonfire Night/Guy Fawkes Night), but also Diwali, New Year's Eve and Chinese New Year.
3. Injury figures support the advice that the safest place to enjoy fireworks is at a large public display - far fewer people are injured here than at smaller family or private parties.
4. The Royal Society for the Prevention of Accidents (ROSPA) advocates that if you are having a firework party at home, you can make the occasion fun and safe for everyone by following the Firework Code.
5. **Firework Code** – The Firework Code advocates that only adults should deal with setting up firework displays, the lighting of fireworks and the safe disposal of fireworks once they have been used. Children and young people should be

supervised, and watch and enjoy fireworks at a safe distance. They go on to set out the following 10 tips for a safer fireworks party:

- i. Plan your firework display to make it safe and enjoyable, and ensure it finishes before 11pm;
- ii. Only buy fireworks which carry the CE mark, keep them in a closed box and use them one at a time;
- iii. Read and follow the instructions on each firework using a torch if necessary;
- iv. Light the firework at arm's length with a taper and stand well back;
- v. Keep naked flames, including cigarettes, away from fireworks;
- vi. Never return to a firework once it has been lit;
- vii. Don't put fireworks in pockets and never throw them;
- viii. Direct any rocket fireworks well away from spectators;
- ix. Never use paraffin or petrol on a bonfire;
- x. Make sure that the fire is out and surroundings are made safe before leaving.

Fireworks Law in the United Kingdom

6. Fireworks in the UK are governed primarily by:
 - The Fireworks Regulations 2004 (under powers delegated from the Fireworks Act 2003);
 - The Pyrotechnic Articles (Safety) Regulations 2015; and,
 - British Standards BS 7114 until 4/7/17 and BS-EN 15947-2015. BS 7114 defines four 'categories' for fireworks, these are described in detail further on in this paper.

Fireworks Available to the Public

7. People under the age of 18 are not allowed to buy fireworks, or possess them in a public place; this was increased from 16 in 1997. Since 1997 all fireworks must comply with BS7114, and be marked accordingly and fall into one of the following three categories:
 - **Category 1:** ("indoor") fireworks are for use in extremely restricted areas.
 - **Category 2:** ("garden") fireworks must be safely viewable from 5 metres away, and must scatter no debris beyond a 3 metre range.

- **Category 3:** ("display") fireworks must be safely viewable from 25 metres away, and must scatter no debris beyond a 20-metre range.
8. Under BS14035, there are also now Category 2 fireworks that require a longer distance of eight metres, providing potentially better effects than five metre fireworks but without the fallout of Category 3 fireworks.
 9. Fireworks of louder than 120dBA at 15 metres cannot be sold to the public.
 10. It is not illegal for a firework to be set off at less than the minimum safely viewable distance; however, in the event of any injury to a spectator, the firer might be liable if the distance was too short.
 11. A Category 3 firework will contain no more than 1 kg net explosive content in the case of combinations and fountains, except for fountain combinations, which can contain up to 3 kg of net explosive content.

Professional Fireworks

12. **Category 4 ("professional"):** fireworks are for sale only to fireworks professionals. They have no restrictions, and this is the default category for any firework that has not been tested to confirm that it should be in one of the lower categories.
13. The law considers a firework professional to be someone employed in a business that fires fireworks, such as a firework display outlet, or a stagehand. In practice, most stores that sell Category 4 fireworks do ask for proof of training; most 4 professionals are trained under the British Pyrotechnists Association Professional Firers Training Scheme, although equally legitimate professional competency courses, recognised under current legislation, are provided by some commercial organisations such as Illuminate Consult. Company directors are liable under the Health and Safety at Work Act for the safety of their employees, and prosecutions have occurred.

Banned Fireworks

14. Mini-rockets, bangers, firecrackers, fireworks of erratic flight (including jumping fireworks) were banned in 1997. In 2004 the definition of mini-rocket was further

restricted, and airbombs were also banned, in an effort to stop anti-social behaviour involving fireworks.

Restrictions on Sale

15. Except for specially licensed year-round firework shops, fireworks are only for sale for Chinese New Year and three days prior, Diwali and three days prior, from 15 October to 10 November (for Guy Fawkes Night), and from 26 to 31 December (for New Year). Typically supermarkets and other general retail outlets sell fireworks in the October–November period and for new year, but do not sell at the other periods in most areas. Using or buying fireworks illegally can result in a £5,000 fine or imprisonment for up to 6 months.

Restrictions on Use

16. Fireworks must not be let off between 11pm and 7am, except on Chinese New Year, Diwali and New Year's Eve, when the period is extended until 1am, and on Guy Fawkes Night, when the period is extended until midnight.
17. It is illegal to set off fireworks (including sparklers) in the street or public place. Section 28 of the Town Police Clauses Act 1847 prohibits setting off, or throwing fireworks in the street. Breaking these laws can result in an on-the-spot fine of £90.

RSPCA Proposals

18. In October 2019 the Royal Society for the Protection of Animals (RSPCA) launched a campaign calling for action to tackle the unnecessary stress caused to animals by setting off fireworks – potentially frightening pets, wildlife and other species.
19. The animal welfare charity threw its support behind concerned pet owners and animal lovers with its 'Bang Out Of Order' campaign; encouraging the responsible use of fireworks, and the adoption of tighter regulations concerning their use.
20. RSPCA wants to see limits to the public sale and use of fireworks closer to four popular celebration dates – Bonfire Night, New Year's Eve, Chinese New Year and Diwali.

21. A spate of calls to the RSPCA about the impact that fireworks have on animals has prompted the charity to campaign for:
- Noise restrictions on the maximum level of decibels in fireworks available to the public;
 - Mandatory licensing and prominent advertising for all public displays;
 - Heightened awareness on the impact of fireworks on the animals around us.
22. At the time animal lovers were being urged to contact their local council to call for action, including better advertising of public firework displays, and to encourage local suppliers of fireworks to stock 'quieter' fireworks for public display.
23. At the time, the RSPCA cited a survey which stated that 62% of dog owners reported their pets showing signs of distress during fireworks season, with 54% of cat owners experiencing the same. They also explained that other surveys had identified that 76% of respondents agree that fireworks should be restricted to traditional dates, while 85% said they thought public displays should be licensed and advertised before taking place. RSPCA Cymru advises those holding their own displays to let their neighbours know in advance, so that they can help prepare their pets and minimise distress.
24. Other RSPCA documents identify a range of other problems caused by fireworks, including:
- *Debris produced by fireworks, if found on the ground, can also pose a hazard to animals, such as horses and farm livestock. Although there is limited direct evidence, it is also likely that fireworks and their debris will cause disturbance to wildlife, and are likely to cause suffering or distress, depending on the distance from the explosive and the noise level.*
 - *The short-lived nature of firework noise can make it difficult for the police or local authority officers to pinpoint locations and take action. The RSPCA believes that a licensing system would help with better enforcement of the law by allowing enforcement bodies to know where licensed events are being held so they can focus on locations and incidents elsewhere.*

- *RSPCA Cymru believes there is a real need to raise awareness amongst owners of animals about fireworks phobia. This phobia can be treated (in dogs at least) in the long term but owners need to prepare themselves and their pets sooner, rather than just before the fireworks are let off. There is a need to raise awareness about the impact of fireworks on animals to the wider public to encourage them to be more considerate of those with pets, horses and livestock as well as local wildlife.*
- *RSPCA Cymru believes the law is failing as it does not prevent or sufficiently reduce the risk of fireworks causing distress, injury or anxiety to people, as well as death, injury or distress to animals. We believe that further research is needed to properly understand the impact of noise on animals and a number of things can be done to improve the situation for animals and people by:*
 - *Introducing a limit on the public use of fireworks on or close to specific dates and times;*
 - *Tightening restrictions on the sale of fireworks in the run up to Bonfire night;*
 - *Reducing the maximum noise level of fireworks sold to the public, ensuring they are labelled accurately;*
 - *Licensing all public firework displays – and ensuring displays are better advertised to the public.*

25. The RSPCA has provided a suggested motion for local authorities to adopt, it is set out below:

This Council resolves:

- *To require all public firework displays within the local authority boundaries to be advertised in advance of the event, allowing residents to take precautions for their animals and vulnerable people.*
- *To actively promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people – including the precautions that can be taken to mitigate risks.*

- *To write to the Welsh Government urging them to utilise any levers at their disposal to mitigate any negative impacts on animals and vulnerable people of the hosting of fireworks displays.*
- *To encourage local suppliers of fireworks to stock 'quieter' fireworks for public display.*

House of Commons Petitions Committee Fireworks Report

26. On the 5th November 2019 the House of Commons Petitions Committee published a report titled 'Fireworks'; a copy of this document is attached to this report as **Appendix 1**. The work of the inquiry was launched in February 2019, and was commissioned in response to 11 e-petitions that between them gathered significant support.
27. The inquiry focused upon three areas which are addressed as specific sections of the report, these are:
- **Section 2 of the Report:** The practical implications of a ban on public sales and use;
 - **Section 3 of the Report:** Assessing the extent of problems and empowering effective local responses;
 - **Section 4 of the Report:** Sales, packaging and public awareness.
28. The report made a series of recommendations that are based on sections 2, 3 and 4 of the report. These can be found on pages 28 to 32 of **Appendix 1**.
29. As a part of a local response to the report, its conclusions and recommendations, the Chair of the Shared Regulatory Services Joint Committee wrote to the Parliamentary Under Secretary of State (Minister for Small Business, Consumers and Corporate Responsibility) asking for '*an enhanced scheme to exercise more control over the use of fireworks*'. The letter also explained that the '*Shared Regulatory Service would be willing to participate in any pilot scheme to exercise more control over the use of fireworks in areas of concern within local communities*'. A copy of this letter is attached to this report as **Appendix 2**. A response to this letter was sent by the Minister for Small Business, Consumers and Corporate Responsibility to the Leader

of Bridgend County Borough Council; a copy of the response is attached as **Appendix 3**.

Way Forward

30. Members are to note the contents of the Member Briefing Note.

Legal Implications

31. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

32. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i. Note the content of this Member briefing note.

DAVINA FIORE

Director of Governance & Legal Services

26 February 2020