

DERBYSHIRE COUNTY COUNCIL

Meeting with Cabinet Member – Health and Communities

22nd October 2013

Report of the Strategic Director Cultural and Community Services

SAFE STORAGE AND SUPPLY OF FIREWORKS

1. Purpose of the report:

To seek the Cabinet Member Health and Communities approval for activities to be undertaken by the Trading Standards Division to keep people safe from the potential harm from fireworks during the 2013 firework season.

2. Information and analysis:

- 2.1 As Members will be aware, the local authority is responsible for registering local businesses for the storage and sale of fireworks. Legislation (The Manufacture and Storage of Explosives Regulations 2005 (MSER) made under provisions of the Health and Safety at Work, etc, Act 1974) controls the amount of fireworks that can be stored and how they should be stored to ensure that the risk of unauthorised access and ignition is minimised. In general, all premises must be licensed for the commercial storage of fireworks. A simplified form of storage licence – Registration – is available for smaller quantities. The only grounds on which a licence or registration can be refused are:

- the premises where the storage is proposed to take place are not suitable; or
- the applicant is deemed not to be a fit person to store explosives.

The amount of fireworks that can be stored is measured in terms of the 'net explosive content' (NEC – also known as the net explosive quantity) which is the weight of explosive rather than the total weight of the firework.

- 2.2 The Fireworks Regulations 2004, made under the Fireworks Act 2003, contain various requirements to regulate the supply of fireworks and help ensure their safety. Since these Regulations came into force in 2005 - in order to reduce the general availability of fireworks - it is only permitted to supply them to the public during certain periods which are:

- Bonfire Night – October 15th to November 10th,
- New Year – December 26th to December 31st,
- Chinese New Year – the day of the event and the three preceding days,
- Diwali – the day of the event and the three preceding days.

- 2.3 Specialist fireworks shops can apply to the local authority for an additional 'annual sales licence' on payment of the requisite fee of £500 which allows these businesses to supply fireworks outside the statutory periods. There are currently four 'specialist' firework retailers in Derbyshire who hold an annual sales licence. Approval for renewal or issue of these 'sales' licences are sought annually from the Regulatory, Licensing and Appeals Committee as delegation for this particular provision to the Trading Standards Division was not specifically sought after the relevant legislation came into force. Reports to the Committee are made, when appropriate to inform of any new applications or seek their approval for the division to proceed with renewals.
- 2.4 A list of all retail premises currently registered / licenced with this department for firework storage is placed on the Derbyshire County Council website. This also indicates those separately licensed to sell fireworks all year round. Links to other websites giving advice on safe firework use and the firework safety code were also placed on the website alongside guidance on reporting unauthorised traders and the importance of being registered or licenced for firework storage. A link to the county council website is provided below:
- <http://www.derbyshire.gov.uk/business/licences/explosives/default.asp>
- 2.5 The number of businesses seeking registration for the storage and sale of fireworks in 2012-13 was 137 which is consistent with recent years, but reduced by around 25% compared with five years ago. This reflects a declining trend in the number of smaller retailers stocking fireworks. All businesses registered for the sale and storage of fireworks are written to in August each year to remind them of the need to renew their storage licence/registration for the forthcoming season.
- 2.6 A proportion of the premises that register are visited to check compliance with storage requirements and are advised of the relevant firework legislation. Particular attention is paid to newly registered premises and those where there have been previous concerns about safe storage. Any non-compliant businesses are revisited and if necessary, illegally stored fireworks can be seized and taken to a safe and secure storage facility and a range of enforcement action considered. It is proposed that a similar approach be adopted for the current firework season.
- 2.7 Local retailers were last visited during October and November 2012 to check for compliance with the safe storage requirements; that a written risk assessment had been satisfactorily completed and to ensure that the required statutory notice was displayed at the point of sale. A total of 78 businesses which were considered to be of higher risk were prioritised. Of these, 25 (32%) were found to be storing fireworks incorrectly and a total of 35 (45%) were otherwise found to be unsatisfactory. Most of infringements were minor and rectified at the time of visit but some necessitated further visits to ensure compliance.

2.8 The more significant infringements detected which each resulted in a letter of warning or caution were as follows:

- A national retail chain with a store in North East Derbyshire was found to be storing their entire stock of fireworks in an unsafe location; placing employees and customers at a greatly elevated risk of harm should a fire have occurred. After a full investigation, the company was issued with a letter of caution.
- Inspections at a Chesterfield branch of a national discount chain and two other retailers based in Erewash revealed that conditions for safe storage were not being met, again increasing the risk to employees and customers on the premises.
- One Chesterfield retailer was found to be selling fireworks outside a permitted sale period.
- Two other Chesterfield retailers were discovered to be storing fireworks without a valid registration.

2.9 Although there has been a slight improvement in the level of compliance and the majority of the infringements have been rectified relatively easily, the potential harm from incorrect storage of fireworks in the event of a fire or unauthorised access is significant and demonstrates the necessity for a programme of annual inspections. For most retailers fireworks are a short-term commodity and the specialised requirements for safe keeping require a degree of special consideration at each store. These reasons contribute to the level of non-compliance the Division continues to experience each year. It is therefore proposed that the Division continues to prioritise firework registration and inspection work during the 2013 fireworks season and works with Public Relations, District Council and Fire Safety colleagues to ensure that appropriate safety messages are re-laid to the public and local businesses.

3. Other considerations:

In preparing this report the relevance of the following factors has been considered; legal, financial, prevention of crime and disorder, equality of opportunity; and environmental, health, human resources, property and transport considerations.

4. Background papers:

None

5. Key Decision:

No

6. Call-in:

Is it required that call-in be waived for any decision on this report?

No

8. Strategic Director's recommendation:

That the Cabinet Member – Health and Communities agrees to the proposed activities to be undertaken by the Trading Standards Division to keep people safe from the potential harm from fireworks during the 2013 firework season.

Martin Molloy
Strategic Director
Cultural and Community Services