

REPORT FROM: CHIEF EXECUTIVE

TO: SPECIAL BUDGET POLICY AND RESOURCES COMMITTEE

DATE: 12th FEBRUARY 2019

Report Author: Tim Horsley
Tel. No: 01282 661280
E-mail: tim.horsley@pendle.gov.uk

REGULATION OF FIREWORKS

PURPOSE OF REPORT

To update the Committee on the current regulation of the use, possession, storage, manufacture and sale of fireworks.

RECOMMENDATIONS

That the information in the report is noted and the option to make representations to central government on changes to the regulations be considered.

REASON FOR RECOMMENDATION

To seek to improve the quality of life of those adversely affected by the unauthorised use of fireworks in Pendle.

ISSUE

1. At its 22 January 2019 meeting the Committee considered a resolution from the Brierfield and Reedley Committee held on 4th December, 2018 “that the Policy and Resources Committee be recommended to ask Council to pass a resolution to lobby Government to ban the sale of fireworks to the public other than for organised displays.” Committee acknowledged that this was a Borough wide problem but it was felt further information would be useful before a decision could be made.
2. The use, possession, storage, sale and manufacture of fireworks are all affected by the category of firework. The four categories are characterised by:
 - Category F1 – fireworks which present a very low hazard and negligible noise level, and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings.

- Category F2 – fireworks which present a low hazard and low noise level, and which are intended for outdoor use in confined areas (i.e. garden fireworks).
 - Category F3 – fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health (i.e. display fireworks for open areas such as fields).
 - Category F4 – fireworks which present a high hazard, which are intended for use only by persons with specialist knowledge and whose noise level is not harmful to human health (i.e. professional fireworks for large open spaces).
3. The **use of fireworks** is restricted by profession, place and time. Only firework professionals can use F4 fireworks and no members of the public can be licensed to use them. There is no suggestion by the Police or Trading Standards that F4 fireworks are being obtained illegally and used in Pendle.
 4. It is **illegal to use** F2 and F3 fireworks in a street or public place at any time and it is **illegal to use** them between 11pm and 7am other than on the specific dates relating to Bonfire Night; New Year; Chinese New Year and Diwali. Catching people doing it or having their identity reported is problematic however this part of the regulation of fireworks offers the most local control with direct enforcement by the Police and the opportunity for this Council to use community protection legislation to help manage repeat offenders. The level of Police incident recording in 2017 and 2018 is shown in Appendix 1.
 5. It is **illegal** for anyone other than a firework professional to possess a F4 firework anywhere. It is **illegal** for anyone under the age of 18 to possess a F2, F3 or F4 firework in a public place. The Police are responsible for enforcement with other options available through the Early Action process where the behaviour of a young person is a concern.
 6. Fireworks **manufactured in or imported into** the UK must meet high regulatory standards. They must carry the CE mark; the firework category and clear safety instructions on their label. Suppliers are also liable under the Consumer Protection Act to supply goods that meet an acceptable standard of safety. Lancashire County Council's Trading Standards are responsible for enforcement of these requirements.
 7. To be able to sell fireworks a retailer must have a **licence to store** them. Licences for less than two tonnes of fireworks are issued by Trading Standards and there are currently eleven retail premises in Pendle licensed to store fireworks. These licences allow for storage all year round.
 8. Although retailers require a licence to store fireworks they **do not require a licence to sell them during these celebration periods:**
 - November 5 - (from 15th October to 10 November)
 - New Year - (from December 26th to 31st)
 - Chinese New Year - (on the first day of the Chinese New Year and the 3 days immediately preceding it)
 - Diwali - (on the day of Diwali and the 3 days immediately preceding it)
 9. Only retailers with a licence to store can sell fireworks during these licence free periods.
 10. A retailer seeking to sell fireworks outside these licence free periods must have a **year round licence to sell** as well as a licence to store. There are currently no premises in Pendle with a year round licence to sell fireworks.

11. Trading Standards manage and enforce the regulations around storage and sale. How to contact Trading Standards to make complaints has been advertised through press releases and social media in Pendle. During the last two Bonfire Night periods they received one complaint in 2017 and three complaints in 2018 relating to Pendle. The complaints in 2018 were:
 - Shop selling fireworks outside the restricted sales period (no evidence obtained that this was the case)
 - Shop not being licensed for firework storage (it was actually licensed)
 - Shop selling fireworks to under age (attempted test purchase made – no sale took place).
12. Outside these complaints to Trading Standards the overwhelming majority of complaints are about the use of fireworks and are made to the Police and this Council. Over the last two years in particular complaints have not been limited to the Bonfire Night period and have started with the wedding season in late spring and early summer.
13. In 2017 this continued through to Bonfire Night with many residents adversely affected yet very little evidence of who was responsible. In 2018, with learning from the previous year, the Fire Service, Police, Trading Standards and this Council were able to get messages out ahead of the wedding season and to better engage residents in providing information about potential events where fireworks may be used in public and outside permitted hours.
14. The Police were able to intervene early and gradually reduce illegal use. This meant the build up to the Bonfire Night period was less problematic however the period itself remained difficult.
15. Although use was sometimes on the premise of being a family celebration this was often a proxy for causing a nuisance or was not involved in any way. There was a complete disregard for the law around time and place and of the disproportionate effect of using the fireworks in residential areas on older people; people with disabilities; people with PTSD and animals.
16. What has also become clear over these two years is that the purchase of fireworks is from year round retailers outside Pendle; thought to be mainly in Manchester. Also that the fireworks include F3 fireworks not intended for use in dense, residential areas.
17. Although partners have had some limited success in reducing the inappropriate use of fireworks locally and will continue the balanced prevention and enforcement approach, there remains no direct control over the sale or possession of fireworks purchased outside Pendle or Lancashire and outside of the celebration periods.
18. In 2018 a national e-petition calling for a ban on the sale of fireworks to the public with sale only for displays and licenced venues received 298,089 signatures followed by a Government response and a debate in Parliament. The Government response was “Government takes the issue of safety of fireworks very seriously. Legislation is in place to control their sale, use and misuse. We have no plans to change legislation.” The resolution at the end of the debate in the House of Commons was “That this House has considered e-petition 231147 relating to the sale of fireworks to the public.”

IMPLICATIONS

Policy: The use and regulation of fireworks has featured on the Pendle Community Safety Partnership’s agenda over the last two years in particular.

Financial: None

Legal: The Council has the lead role on the use of Community Protection Notices to deal with continuing and persistent behaviour detrimental to the quality of life of others.

Risk Management: The legislation supports those elements of the Risk Management Plan relating to community safety.

Health and Safety: Direct intervention in enforcement poses a risk for the staff involved which is mitigated through the Council's risk assessments, lone working policy, use of the Volcano database and working in partnership with other agencies.

Sustainability: None

Community Safety: The use and regulation of fireworks has featured in the Pendle Community Safety Partnership's agenda over the last two years in particular.

Equality and Diversity: None

Appendix 1

Pendle firework nuisance reports 2017/18

	2017	2018
Colne		
Waterside	2	4
Horsfield	1	5
Vivary Bridge	2	2
Colne Rural	0	1
West Craven		
Craven	0	0
Coates	2	0
Earby	2	3
Nelson		
Whitefield/Town Centre	11	9
Marsden/Southfield	10	9
Cloverhill/Walverden	14	16
Bradley	19	12
Barrowford and Parishes	1	2
Brierfield	54	45
Total	118	108