

WARDS: ALL

AGENDA ITEM NO.

DUDLEY METROPOLITAN BOROUGH COUNCIL

STOURBRIDGE AREA COMMITTEE – 10th DECEMBER 2003

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT

FIREWORK ENFORCEMENT

1.0 PURPOSE

- 1.1 To bring to the Committee's attention current enforcement activities concerning fireworks and developments that may ensue from the enactment of the Fireworks Act 2003.

2.0 BACKGROUND

2.1 CURRENT ENFORCEMENT ACTIVITIES

- 2.1.1 Officers from the Trading Standards Division enforce the current law, which prohibits the sale of fireworks to people under 18 years of age, by the following means:-

- ❖ sending an information pack, about the law, to all firework retailers (prior to the firework season)
- ❖ visiting firework retailers about whom complaints are received (i.e. complaints alleging that sales are being made to persons under the age of 18 years)
- ❖ carrying out "test purchases" using children under the age of 18 years old
- ❖ instituting proceedings against retailers who sell to minors

No sales of fireworks were made to Trading Standards volunteers during the current years test purchasing exercise.

2.2 NEW LEGISLATIVE CONTROLS

2.2.1 The Fireworks Act 2003 (The Act) received Royal assent on the 18th September 2003 but will not come into force until such time as a commencement order is made. To date no commencement order has been made.

2.2.2 The Act is an enabling Act, that is to say, it does not in itself impose any new controls over the sale, supply or use of fireworks but “enables” the Government to make regulations that impose such controls. To date no regulations have been made

2.2.3 The Act makes provisions for Regulations that will:-

- ❖ prohibit the **possession** of fireworks by a person below a specified age. (Currently it is an offence to **sell** fireworks to a person under 18 years old)
- ❖ prohibit the supply, possession or use of fireworks during specified hours of the day or in specified places. (It is understood that this provision may impose a firework “curfew” from, for instance, 11.00pm to 7.00am).
- ❖ prohibit the supply and possession of certain types of fireworks to any person unless that person can demonstrate that they have relevant experience and insurance cover. (Currently certain types of fireworks, intended for public display, can only be supplied to firework professionals. This provision will enable tighter controls of such operators).
- ❖ prohibit public firework displays unless:-
 - notice of the display has been given to the local authority
 - an appropriate fee has been paid
 - the operator is competent.
- ❖ prohibit persons from supplying fireworks unless they are licenced to do so by the local authority, conditions may be attached to the licence relating to:-
 - the time of year that sales may take place
 - the fitness of the person to hold a licence
 - the time of day which they can be sold

(Currently a retailer of fireworks requires a licence, issued by the Fire Service, to **store** fireworks. Obtaining this licence is subject only to meeting appropriate storage conditions and takes no account of the suitability of the applicant).

2.2.4 The local authority would be empowered to grant dispensation from a number of the above provisions, as it saw fit. (For instance, to allow for fireworks displays, after 11.00pm, on New Years Eve).

2.2.5 Contravention of any of these provisions may result, upon summary conviction to:-

- ❖ imprisonment for a term not exceeding 6 months, or
- ❖ a fine not exceeding £5,000,
- ❖ or both

2.3 PROPOSED DEVELOPMENTS

2.3.1 On 5th November 2003, the Government announced that, before Christmas:-

- ❖ the possession of fireworks by under 18 year olds in public places will be made illegal
- ❖ the **possession** of the largest, most powerful, 'category 4' fireworks will be outlawed for all members of the public
- ❖ fixed penalty notices for people caught throwing fireworks in the street will be doubled to £80 under the penalty notice for disorder scheme currently being rolled out nationally
- ❖ the current voluntary ban on the sale of 'air bombs' will become a statutory one.

2.3.2 The Government has already begun preliminary consultations on implementing the rest of the Fireworks Act and will publish draft regulations in the New Year to introduce:-

- ❖ a national curfew banning the use of fireworks during anti-social hours
- ❖ a noise limit of 120 decibels on fireworks available to the public
- ❖ a compulsory training course for operators of public firework displays
- ❖ a new licensing system for the sale of fireworks to ensure local authorities have the power to refuse and revoke licences if retailers act inappropriately.

3.0 PROPOSAL

3.1 That these enforcement activities and future legislative controls be noted by Members of the Committee.

4.0 FINANCE

- 4.1 Current enforcement actions are funded from within existing budgets, it is not possible to determine future budget requirements until, at least, draft regulations are available.

5.0 LAW

- 5.1 The new proposals for the control of fireworks is contained in the Fireworks Act 2003 and Regulations which will be made thereunder.

The duty to enforce current firework legislation rests largely with the Local Authority, such enforcement being carried out by the Authority's Trading Standards Section. Whilst it is recognised that the majority of the new Act will continue to be enforced by the Local Authority, there will need to be a division of the enforcement responsibilities, within the Authority, between Trading Standards, Environmental Health and Legal Licensing, together with the Police.

6.0 EQUAL OPPORTUNITIES

- 6.1 This report accords with the policies of the Council on Equal Opportunities

7.0 RECOMMENDATION

- 7.1 That this Area Committee considers the proposals arising from this report and confirms the course of action it supports.

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Background documents used in the preparation of this report:-

1. Fireworks Act 2003
2. Guidance Notes to the Fireworks Act 2003
3. Guidance Issued by Local Authority Co-ordinating Body on Regulatory Services (LACORS)
4. DTI Press Release dated 5th November, 2004