



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Monday 21 March 2022

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Monday 21 March 2022

CONTENTS

FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) BILL: STAGE 1	Col. 1
--	---------------

CRIMINAL JUSTICE COMMITTEE

11th Meeting 2022, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

- *Katy Clark (West Scotland) (Lab)
- *Jamie Greene (West Scotland) (Con)
- *Fulton MacGregor (Coatbridge and Chryston) (SNP)
- *Rona Mackay (Strathkelvin and Bearsden) (SNP)
- *Pauline McNeill (Glasgow) (Lab)
- *Collette Stevenson (East Kilbride) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David MacKenzie (Society of Chief Officers of Trading Standards in Scotland)
Chief Inspector Nicola Robison (Police Scotland)
Julie Whitelaw (West Lothian Council)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

Virtual Meeting

Scottish Parliament

Criminal Justice Committee

Monday 21 March 2022

[The Convener opened the meeting at 14:00]

Fireworks and Pyrotechnic Articles (Scotland) Bill: Stage 1

The Convener (Audrey Nicoll): Good afternoon, and welcome to the 11th meeting in 2022 of the Criminal Justice Committee. We have received no apologies.

Before I start the meeting, I wish to offer the committee's condolences to the family, friends and colleagues of David Hill, our colleague Jamie Greene's head of office, who passed away suddenly last weekend. Our thoughts and prayers are very much with all of you at this difficult time.

Agenda item 1 is our second evidence-taking session on the Fireworks and Pyrotechnic Articles (Scotland) Bill. I refer members to papers 1 to 3.

I am very pleased to welcome to the meeting Chief Inspector Nicola Robison, from Police Scotland's partnerships, prevention and community wellbeing division; David MacKenzie, chair of the Society of Chief Officers of Trading Standards in Scotland; and Julie Whitelaw, interim head of housing, customer and building services at West Lothian Council. We very much appreciate your taking the time to join us this afternoon.

I remind members that they should indicate whom their question is for. If members or witnesses wish to ask or answer a question, they should put an R in the chat box or make a request to speak, and I will bring them in. We have about an hour and 30 minutes for this session.

We move directly to questions. I will open with the usual general question, which is for Chief Inspector Robison first and then for David MacKenzie and Julie Whitelaw. What are your organisations' experiences to date of dealing with fireworks and pyrotechnic articles? From your organisation's perspective, is the bill the right step at the right time?

Chief Inspector Nicola Robison (Police Scotland): Good afternoon, convener and committee members. I work in Police Scotland's partnerships, prevention and community wellbeing division. As someone with 22 years of police service, I have been aware throughout my career that Police Scotland has been working to address the illicit use of fireworks and pyrotechnics for

several years now. As a result, it welcomes the bill.

Police Scotland's primary concern with regard to pyrotechnics and fireworks is obviously safety, and a key focus is prevention through education and persuasion to ensure that people use them responsibly. However, we understand that education and prevention efforts might not persuade everybody to act safely with such articles, so it is essential that officers have the necessary powers to intervene as early and safely as possible when they are misused.

Police Scotland already has operation moonbeam, which is its response to firework season and bonfire night. The onset of Halloween and bonfire season obviously has a significant impact on Police Scotland, with a marked rise in antisocial behaviour and violence, and it is a highly disruptive and potentially dangerous time for communities and members of the public as well as for our officers and fellow colleagues in the emergency workers environment. As a result, we now take a multi-agency prevention approach to the issue. In response to, and on the back of, a number of significant incidents of violent behaviour in 2017, primarily in the Edinburgh area, in which a number of Police Scotland officers were injured, we now pre-empt such incidents every year through early planning and a multi-agency response to bonfire night and firework season.

It is hoped that, through the policy and the proposals in the bill, as much of the Scottish public as possible can be educated and persuaded to use fireworks and pyrotechnics safely and responsibly. We are aware of several well-established religious and cultural events in Scotland at which fireworks are legitimately used, and we accept that there are many legitimate uses for pyrotechnic articles. We have noted in recent years an increase in what has been classed as a pyro culture in relation to the use of pyrotechnics at various events, including music and football-related events. That is a significant concern for us, because we want to ensure the safety of all members of the public who attend the events, the stewards at the events and my officers and other emergency workers.

Those are, for us, the key points about safety. We absolutely welcome the bill's introduction and hope that its proposals will be approved. I understand that the committee has a copy of our "Illicit use of pyrotechnics at events in Scotland" report, and I hope that that will assist the committee's understanding of some of the issues that we face with pyrotechnics. A working group was established in Police Scotland on the back of those issues, a lot of which are covered in the report.

In summary, we welcome the bill.

The Convener: Thank you very much, chief inspector. That was very helpful. I will come back to you later with a couple of questions about the potential for widening the offences, which I think was mentioned in your submission.

David MacKenzie (Society of Chief Officers of Trading Standards in Scotland): Thank you for inviting me along today.

Although I work for Highland Council, I am here today as chair of the Society of Chief Officers of Trading Standards in Scotland, which represents the trading standards teams that operate in all 32 local authorities in Scotland. Our interest in the area relates to business supply and storage of fireworks. Among the wide range of legislation that trading standards teams enforce locally is legislation that covers, for example, the safe storage of fireworks, the prohibition on sales to underage buyers and so on, and the new proposals add to that. Again, we have a particular interest and involvement in, generally speaking, retail supply and sales; we are not too involved with the nuisance and community behaviour side of things.

For us, there are three questions with regard to the bill. First, are the provisions that trading standards teams will have to enforce feasible, and will they work in practice? Secondly, are the powers that will be given to our officers enough to make the system work and ensure that it is enforceable in practice? Thirdly, will trading standards teams' work on the issue be financed?

On the first question, the provisions look feasible and good. We had quite a bit of input into the bill and have made a number of suggestions, and the drafters seem to have done a pretty good job on the supply of fireworks by businesses. We are generally quite happy with that.

On the second question, we think that the powers in the bill have generally been well handled. After all, there is no point in having laws if they cannot be enforced properly, and we cannot have proper enforcement if we do not have a suitable range of powers. I am happy to answer specific questions, but we think that, in general, the fairly extensive powers that are proposed will be enough for our guys to do their jobs properly and will not be overly onerous on business. The bill provides protections for business if the powers are used unreasonably or unfairly.

On the third question—whether the work of trading standards will be funded—I appreciate that that is not a matter for the bill as such, but the financial memorandum deals with it. We broadly support a lot of the material that is in the financial memorandum on supporting trading standards authorities to do the work. We are completing an extensive programme of work for the 2021-22

financial year in relation to the fireworks provisions that were introduced last year. That has been successful and widespread, and it shows what can happen when our guys are well funded to do the work and to fully bring home the policy objectives.

Extra funding is excellent and we really welcome it, but it can be useful only when local services are viable and have enough officers with up-to-date skills and so on. Extra funding does not work unless viable services continue to be supported. That has been a challenge for a lot of local services in recent times, and it is a challenge for trading standards.

I have covered the three broad areas that we are looking at: whether the provisions are feasible, whether we will have sufficient powers and whether we will have the funding to do our job properly.

The Convener: That is great. Thank you for being nice and succinct—that is really helpful.

Julie Whitelaw (West Lothian Council): Thank you for the opportunity to speak to the committee. I am the interim head of housing, customer and building services at West Lothian Council. My service leads on community safety and on engagement with community safety partners across West Lothian. Our organisation's experience of the use of fireworks across West Lothian differs, but we have had significant issues with antisocial behaviour that has been caused by the use of fireworks in pockets across West Lothian.

Committee members recently visited Blackburn and met members of the Blackburn bonfire night action group. That successful group has involved all partners across West Lothian, but it is important to point out that it is community led. It was recognised that Blackburn was a hotspot; it was a problem area periodically, and the police were required to bring in extra resources to deal with it. The community safety board agreed that action had to be taken. The fire service pulled everything together for the first meeting, but the group has since been community led.

We support the bill, but any action that is taken should be based on analysis of the data that is available—that was very much what happened when the BBNAG was created. It would support the council to have clarity on the criteria and the thresholds that are to be applied for firework control zones. We are quite concerned about the funding that might be required to analyse the data for, consult on and publicise any firework control zones that need to be in place. However, the council welcomes the bill's introduction.

The Convener: I am sure that we will come back to the point about firework control zones. I thank all the witnesses for their responses.

I have a follow-up question to ask Nicola Robison a wee bit about offences, and then I will hand over to Katy Clark and Rona Mackay.

Police Scotland's submission touches on section 7, which is about relevant offences. Comments in the submission suggest that Police Scotland would find it helpful

"to have a wider list of offences to include the likes of Wilful Fireraising or Culpable and Reckless Fireraising in order to promote a more positive impact on community safety and wellbeing."

It would probably be helpful to hear a wee bit more about the rationale for that widening.

14:15

Chief Inspector Robison: When we looked at the problem areas and the incidents that we are having to deal with, we thought that a wider list would be beneficial because there are some circumstances that do not fit the criteria for the legislation that is available at the moment. We thought that that would be something for the committee to consider, if possible, and to take a view on.

The Convener: [*Inaudible.*] I will move straight on. We would like to touch on the main themes in the bill.

Katy Clark (West Scotland) (Lab): I would be grateful if the witnesses would outline their views on the actual extent of the misuse of fireworks in Scotland and whether they think that the legislation is a disproportionate response, because the committee has received a number of submissions suggesting that this level of action is not required. I start by asking Nicola Robison for her response to that point.

Chief Inspector Robison: We certainly think that the legislation would allow us further opportunities for early and effective intervention to ensure the safety of the public and emergency workers such as ourselves. Although there are existing powers, the new proposals would allow us to build on those and give us another tool in our toolkit from an early prevention point of view. That is imperative.

We want to look at the aspect of prevention before incidents occur. It is probably not just one recommendation or proposal that will assist with that. An element of each, collectively, will allow us to improve our enforcement and build on what we can already do. We have established that there are gaps in the current legislation and the bill would allow us to fill those gaps.

Katy Clark: How would you quantify the current extent of the misuse of fireworks? How much of a problem is it?

Chief Inspector Robison: It will not surprise you to hear that it is a particular issue around Halloween and bonfire season. I can give you a rough idea, building on the stats that are in our "Illicit use of pyrotechnics at events in Scotland" report. We have refreshed the stats to give you a more current idea.

In respect of the number of incidents that have been classified under a fireworks disposal code, 1,512 incidents were recorded in 2020-2021. For 2021-22, that number has reduced to 872 incidents. We have to take cognisance of the impact of Covid, which meant that a lot of events were not held, but the numbers appear to show some sort of reduction in the number of firework calls that we have had.

I can also give you data on the actual call volume, which you might find helpful. For the Edinburgh division, which is one that is significantly affected during bonfire season, the data that we have relating to fireworks, fire and antisocial behaviour calls associated with the wider bonfire night period, which covers 30 October to 6 November, shows that there were 649 calls for fireworks incidents in November 2021, compared with 798 calls in the previous year. The number of fires that were reported in November 2021 was 105.

Those numbers are only for Edinburgh, so you can see that the impact on us is significant. I would probably take any opportunity for legislation or powers that would allow us to do more in respect of prevention and ensuring the safety of the public. We would absolutely welcome any additional opportunity to do that.

Katy Clark: The Fire Brigades Union speaks about a number of injuries to its members. To what extent are the injuries associated with some of those incidents?

Chief Inspector Robison: I do not know whether that data is included in our initial pyrotechnics report, but I have it to hand too, so I can provide it. Quarter 4 data for 2021-22 is not yet available so we can base the figures only on the first three quarters—the health and safety reporting to Police Scotland for the period of 1 July 2021 to 31 December 2021, added to the quarter 1 information that is already provided in the report that you have sight of, and including the number of accidents and near misses on bonfire night 2021. The projection that includes the figures that we expect from quarter 4 is broadly in line with the totals for 2019-20.

To give you an idea, in 2019-20, 25 pyrotechnics incidents at events and three incidents at bonfire night fireworks were reported, so the total number of incidents was 28. In 2021-22, from quarter 1 to quarter 3, there were 10

pyrotechnics incidents at events and 11 at bonfire night fireworks, for a total of 21. By the time we take in quarter 4, the figures will be broadly similar to those of 2019.

We have refreshed the figures on reports of injury to police officers to include the months up to December 2021, and the data bears out the potential for a large increase on previous years that is highlighted in the original report that you have sight of. With quarter 4 still to be added to the data, the full-year projection is 17 reports involving injuries to police officers as a result of misuse of fireworks and pyrotechnics.

At the moment, for the first three quarters of 2021-22, we are sitting at 13 incident reports, and we think that the figure will be 17 in total. That compares with two reports for 2017-18, five reports for 2018-19 and six reports for 2019-20. Obviously, the figure drastically reduced for 2020-21—because of Covid, I would suggest—but it has now significantly increased to three times as many reports for 2021-22, which is obviously very concerning for us.

Katy Clark: Thank you for that. I put the same question to David MacKenzie. Could you outline your views on the actual extent of the misuse of fireworks and on whether the proposed legislation is proportionate from your perspective?

David MacKenzie: We get some complaints about the misuse of fireworks, but not that many, because people tend to go straight to the police or to other parts of the council with those types of complaints. Our guys will investigate the complaints, but the issue seldom relates to the things that we deal with. For example, if under-18s are perhaps abusing fireworks in some way and there is a suspicion that a shop sold the fireworks to them, we will check that out and do the necessary work. However, compliance nowadays is pretty high generally.

Fireworks are extremely dangerous explosive products, which I suppose is why we are having this conversation. Local authority trading standards give a high priority to the matter, with very strict rules about the storage and movement of fireworks as well as their sale. Obviously, the chief inspector knows a lot more about the subject than I do, because we do not deal directly with it. To be honest, we tend to pass on the complaints that we get to the police once we have checked them out, because they are usually about abuse and misuse rather than the purchase, storage or sale of the product.

I reiterate that fireworks are explosive products, and we echo the point that public safety is most important, but it is probably not for me to say whether the legislation that is being brought in is proportionate.

Katy Clark: That is helpful. Julie Whitelaw, do you feel that the legislation is proportionate given the actual extent of the misuse of fireworks?

Julie Whitelaw: In West Lothian, we have seen significant numbers of complaints about antisocial behaviour relating to the misuse of fireworks, which is what led to the Blackburn bonfire night action group being set up. That group works to proactively plan for bonfire night as a result of the history of fireworks-related antisocial behaviour in the area, although that is not the only area in West Lothian where there are concerns. There is already planning in place for bonfire night this year that looks at intelligence from previous years and plans diversionary events in those areas.

The view of West Lothian Council is that the legislation, particularly in relation to restricting the periods when fireworks can be used, will support a reduction in the incidence of nuisance associated with the misuse of fireworks and enable community safety partners to plan diversionary events and enable members of the community to plan and prepare for the possibility of fireworks being set off.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I will continue in the same vein as the last line of questioning. We have heard about the damage, antisocial behaviour and concern around fireworks, and when we consulted the public in our previous public engagement, there was wide support for an outright ban on fireworks. What is your response to that?

Chief Inspector Robison: I do not think that Police Scotland would welcome an outright ban. As I mentioned earlier, we have to take cognisance of the fact that a lot of people enjoy fireworks safely in a safe environment. For me, it is about encouraging the safe and responsible use of fireworks and, through education, persuading people to attend organised events that are safe. On the back of the new proposed licensing system, people will receive relevant training.

I would not support an outright ban on fireworks. Again, I mention the cultural events and traditional religious festivals and so on where fireworks are enjoyed safely. We want to encourage the safe and responsible use of fireworks.

David MacKenzie: I probably echo those views. We are very much focused on the fact that consumer protection is what we do, but we are also in the business of allowing businesses to operate fairly and safely and to make a living. It is important that the needs of businesses and, as the chief inspector just said, the legitimate public consumer desire to enjoy fireworks in a fair and reasonable manner are taken into account.

Ultimately, any legal product can be supplied as long as it is supplied in a fair, safe and reasonable

way. Everyone can be a winner in that situation. Different products have to be treated in different ways and, as I said, fireworks are potentially dangerous, so they need more attention and probably more regulation. However, we certainly think that that can be done fairly and safely and in such a way that legitimate businesses can continue and consumers can enjoy them in a reasonable way. I also echo the chief inspector's points about the cultural importance for various different communities in Scotland and the role that fireworks play.

We tend to push the public towards organised displays. We do not say, "Do not buy your own fireworks." As long as people are allowed to buy them safely and fairly, that is fine. As long as there are appropriate and proportionate restrictions on those retail sales along with properly organised public displays, it seems to me that we can enjoy fireworks safely.

14:30

Julie Whitelaw: I support what has been said. Many communities across West Lothian have gala days or Christmas parades and use fireworks to celebrate those occasions. Rather than a ban, we support legislation that would encourage sensible use of fireworks.

The Convener: We will move to questions about the licensing scheme. I will start with Rona Mackay and then bring in Pauline McNeill for a supplementary question.

Rona Mackay: It is proposed that the licensing scheme will involve a fee. Do you think that imposing a fee might lead to some sort of black market, or to online scams in which the quality and safety of fireworks are less assured? Is there scope for fraud in licensing? Could people who want to misuse fireworks play the system to get them?

I put that question to David MacKenzie first.

David MacKenzie: As I said in my opening remarks, we are generally happy with the way in which the provisions have been drafted and think that they are broadly feasible. The caveat is about how some of the detail of regulations will turn out and how the licensing system will operate in practice. That needs to be done properly and we would welcome being able to contribute to and assist in that discussion.

You asked about fraud. That is definitely a possibility. We must design a system that is as good as it can be to avoid that. If businesses have to check that someone has a licence, we must ensure that there are robust systems in place to create a mechanism for that to happen.

It is not an exact parallel, but in Scotland we have a clear system to get people to prove that they are over 18 to buy tobacco and vaping products. Certain specific photographic documents, such as passports and driving licences, have to be produced. We probably need that sort of approach here, although the detail is for another day. That must be done robustly and properly. We will never completely stop fraud, but we can go a long way towards doing that. It is perfectly possible to set up a system that does all those things.

The question of fees is always a difficult one. Will they create a black market? Probably, but we will not know until that happens in practice. I think that some people will be dissuaded by a fee. They might just not buy fireworks at all, but they might look for illicit sources. There is a further danger that those illicit sources might lead to illicit products and to even more dangerous fireworks that have not gone through the usual quality controls. On the other hand, licensing systems must be funded in some way and raising some money through a licensing fee seems to be a reasonable approach.

From our point of view, looking at retail supply, more work is necessary to get those things right and to create a system that is as good as it can be. However, I think that it can be done.

Rona Mackay: I have a slightly different question on licensing for Julie Whitelaw. Do you feel that you have enough detail at this stage about how that will work in practice? I am keen to know what you think. For example, I can imagine that, in my neighbourhood, hundreds of people might apply for a licence to use fireworks on or around fireworks day. It seems that that process would be quite labour intensive. Do you have the staffing resources to deal with it? Has the detail of how the system is going to work in practice been negotiated with West Lothian Council and other local authorities?

Julie Whitelaw: At this stage, the answer to that is no. We are not clear exactly how a licensing administration system would operate, and therefore we have not had the opportunity to consider the resources that we would require to take that forward. We would need to know what the application process was and how it was to be administered. We just do not have enough information right now to enable us to properly identify what the administration process would be. When that is agreed, we will need a lead-in time to enable us to review the systems and processes—any appeal processes, for example—that will be required and to identify appropriate resources.

Rona Mackay: Chief Inspector Robison, I do not know whether you want to comment on those

questions; you should feel free to do so if you want.

Chief Inspector Robison: I cannot really comment on the fee aspect, but we are absolutely working collaboratively with the Scottish Government on what the proposed licensing system would look like and how the process would be worked through and any risks identified.

As has been mentioned, the need to recognise potential risks such as fraud has to be worked through to ensure that the system is robust and that it delivers on what we require it to do. We are still at the stage of considering whether the system will involve manual input of data or whether it will be automated. We will certainly continue that collaborative work with the Scottish Government to ensure that the system is fully robust and that it serves the purpose that we need it to.

The Convener: We have a few supplementary questions on that subject. Pauline McNeill has a follow-up question, and I know that Russell Findlay and Jamie Greene would like to come in, followed by David MacKenzie.

I will come to you all, starting with Pauline.

Pauline McNeill (Glasgow) (Lab): So far, from the evidence that I have heard, we can fully understand why everybody opted for a licensing scheme and not a complete ban. As Chief Inspector Robison and others have said, we do not want to spoil people's enjoyment. However, there are still pretty serious antisocial behaviour incidents that we want to get under control.

One of my main worries is that, so far, the system seems to be quite complex. There would be certain days and certain times when people could not use fireworks, so the public would need to be clear on that, because they are the ones on whom the police would rely to report that there had been an offence. That is one of my primary concerns.

Like Rona Mackay, as she outlined in her line of questioning, I do not favour a ban. However, I ask myself whether a ban would be easier to police, because the proposed system seems to be pretty complex. My first question is for Chief Inspector Nicola Robison. How confident are you, given the complexity of a licensing scheme, and all that has been said, that the bill would actually tackle the antisocial behaviour element of the misuse of fireworks?

Chief Inspector Robison: From a Police Scotland perspective, that is where communication and raising awareness of the bill, if it is passed, will be crucial. We would need to ensure that the public were left in no doubt as to what the new legislation would mean for them. It would require a multi-agency response to ensure

that communication was robust and that people were left in no doubt with regard to clarity on which dates and at which times the use of fireworks was allowed. That is one of the most important elements.

With regard to how confident I am on the aspect of tackling antisocial behaviour, I go back to something that I mentioned earlier. It is not about using each component of the proposed bill in isolation, but about using the implementation of firework control zones, the licensing system and the new stop-and-search powers to respond collectively.

That will have an impact on reducing antisocial behaviour. We recognise that that will not stop everyone. Again, I go back to education and raising awareness, which involves ensuring that messages are put out in the right manner and that Police Scotland has in place the right prevention opportunities, such as the pitchin' in programme for young people, which addresses a number of issues. We can build programmes such as that into our work to raise awareness of the impact and dangers of using fireworks and pyrotechnics.

The new legislation would provide us with more opportunity and, ultimately, that would reduce antisocial behaviour. It would not be a complete cure, but it would certainly assist us. Communication and a multi-agency approach are vital.

Pauline McNeill: That answer is helpful.

I know that some members have questions about exclusion zones, and I do not want to cross into that. However, given what you have said, it seems obvious that exclusion zones might be the only way in which the system could work, as it would not be easy to use the complex rules in the licensing scheme to control or stop antisocial behaviour.

I represent the city of Glasgow, and Pollokshields is notorious for fireworks misuse. I am not confident that all those cases are being prosecuted—reporting is another issue. Is it your understanding that that is the kind of area in which an exclusion zone might be used? If it is not, then how will we use the legislation to home in on a serious misuse of fireworks in some communities beyond 5 November?

Chief Inspector Robison: Local authorities, through engagement with their communities, will identify where the firework control zones will be. They will decide on the size, location and duration of the zones, supported by Police Scotland. Zones will be implemented in response to communities raising significant concerns. Police Scotland will support the implementation of zones, but local authorities, through engagement with local communities, will be key in deciding where they

are implemented and how many are implemented in each area.

Russell Findlay (West Scotland) (Con): I have a question for David MacKenzie; it is in two parts.

Fireworks are inherently dangerous, but, in one of your answers, you spoke about black market fireworks—the kind of stuff that does not go through the same safety checks as fireworks that you would buy in a supermarket, for example. Can you quantify how much of those types of fireworks you might typically seize?

Given that it seems likely that a licence will cost money, which I presume will become a barrier to some people purchasing fireworks, is there not a risk that the requirement to have a licence will lead to criminals exploiting that barrier, making the prevalence of black market fireworks more common?

David MacKenzie: To be honest, we do not come across much in the way of illicit or illegal fireworks. An illegal firework is one that has not been constructed safely—or has not gone through proper quality control, so we do not know whether it has been constructed safely—and an illicit firework might be a proper firework that has been supplied in a way that is not permitted. We see more of those than the dangerous, fully black market stuff. It is hard to predict what will happen, because we do not see a lot of that.

We have done some preliminary work on black market fireworks this year for the Scottish Government, by looking at social media sites and so on. That work is very much in its early stages, but we do not think that an awful lot of supply goes through that route, because a lot of the social media sites have a complete ban on the supply of that type of product through their trading groups—albeit that people can and do get around that from time to time. However, generally, that has that kind of effect.

14:45

What is probably more likely is illicit supply—supply that is not permitted at certain times of the year. As soon as we get outwith the parameters of control, there is the potential for more and more things to go wrong. At the moment, the industry in that field is largely compliant, which is partly because of the work that we and others have done over the years in keeping a tight lid on it. There are not many suppliers of fireworks, now. Not many shops sell them. When I started in this job 30 years ago, every corner shop sold fireworks, but that is no longer the case. There is certainly a risk and there is work for us to do on where this goes. Both situations—the illicit and the illegal—are very hard to predict, particularly the illegal. There is definitely a danger.

The short answer to your question is that not very much research has been done on that, more needs to be done and we will certainly be looking at it.

Russell Findlay: I suppose that this question leads on from that. I am perhaps jumping slightly ahead in our running order. For trading standards services in all 32 local authorities, there will be a cost attached to policing this. You have specified that it might involve working on public holidays at Christmas and new year. Do you envisage the creation of a significantly greater workload for trading standards people across Scotland and, if so, how can that be addressed?

David MacKenzie: It will result in significant extra costs—there is no doubt about that. However, in 2021-22, we were funded to carry out a fairly extensive programme of work on the provisions, which came in last year, on the times of day when fireworks could be sold and on the maximum explosive content. A lot of good work was done on that and, as I said, that shows what can happen if we get some decent, specific funding. However, that must continue. For that work to be done—for that return and enforcement, which is the only way to ensure that provisions are being complied with and that the intentions of the legislation are being achieved—it has to be paid for.

There are significant extra costs. There are 31 services in Scotland—one is a joint service—across the 32 authorities. All are fairly small, and they have a wide range of obligations, so, basically, they have to prioritise. That is a challenge. However, as I said at the start, if specific funding can be provided for something such as this, in a context in which our services continue to be viable—some are now at the stage at which it could be argued whether they are viable; they are certainly at risk of not being viable—it can work.

With such legislation, a splurge of activity in the first two or three years can often sort things out and mean that longer-term enforcement obligations are significantly fewer, because there has been positive engagement with the trade—advice and so on—and it has come to terms with what it needs to do. In general, therefore, there is less need for a specific new thing such as that in the future. The costings in the financial memorandum reflect that point.

Russell Findlay: Out of curiosity rather than to seek a big bit of evidence, which are the two local authorities that currently work together on trading standards?

David MacKenzie: Stirling Council and Clackmannanshire Council have a joint team. It is a relatively small arrangement; I think that there

were only one or two officers from Clackmannanshire when they joined up. All the other authorities have their own trading standards service.

The Convener: I will bring in Jamie Greene.

Jamie Greene (West Scotland) (Con): Good afternoon to our panel of guests. I have two questions, which I think must be directed to Julie Whitelaw—I am sorry to pick on you, but I think that you are the only local authority representative from whom we will take evidence, given the nature of efforts to squeeze in evidence sessions.

How realistic is it to think that a licensing scheme can be up and running this year? The Government has the ambitious timescale of putting the proposed restrictions in place by bonfire night this year. We have expressed a little disquiet about that; we want to get the legislation right. Indeed, we think that the licensing scheme will not feature in the bill and will probably be the subject of regulations, which the committee will have to consider subsequently.

Given that there are so many known unknowns, of which we do not have details, how quickly will councils be able to set up schemes? It is councils that will be required to administer the schemes. Is it realistic to do that in time for this year's bonfire night? Will that come at a financial or resource cost for councils? Will you be able to meet the demands that might be placed on you in the coming months?

Julie Whitelaw: It will be really challenging to get a licensing scheme up and running in time for this year's bonfire night. There would need to be agreement on the timescale for applications, on which safety partners will be involved in advising on applications and on the systems, criteria and processes that will be used. Until all that is known, I cannot say whether we would have sufficient resources—or the ability to divert resources from other licensing schemes—to support the proposed scheme. A lot of detail will be required before I can say with confidence that we can get a scheme up and running.

We should bear in mind that most licensing schemes have a sufficient lead-in period when it comes to the date by which an application must be made, to allow the application to be processed. With a new scheme, there is always a little to-ing and fro-ing with applicants, to ensure that we have sufficient information. We need to consult our advisers, who need plenty of time for that, too. At least 28 days are needed before an application can be granted.

If we are looking at restricted periods for the use of fireworks, I expect that there will be a flurry of applications at particular times. That would be challenging to manage. There will also need to be

sufficient publicity, to ensure that members of the public are aware of the requirement to apply for a licence and the timescale and process for doing so. From a local authority point of view, it would be very challenging to get all that in place for this year.

Jamie Greene: That is interesting and helpful—thank you. I do not want to put words in anyone's mouth, but I am sure that other local authorities and the Convention of Scottish Local Authorities have similar comments to make. I hope that we will get their feedback in due course, to inform our stage 1 report.

We are considering a nationwide approach to the restriction of sale and purchase of fireworks. When we consider other schemes that we have devolved to councils, such as low-emission zones and the workplace parking levy—I am thinking about schemes for which councils, rather than the Government, are responsible, with legislation enabling you in that regard—how much flexibility would your council want on, for example, timescales, the period of use, and exemptions and exceptions? Would you want to offer enhanced flexibility in your area, to meet the needs of your communities? I am thinking about religious groups, local events and so on.

In other words, is it better to have local schemes, which are locally administered, or a national scheme? Would it be better to have 32 separate and flexible schemes?

Julie Whitelaw: West Lothian Council would support a national scheme and a consistent approach to applications across all local authorities. The reason is that it is likely that some individuals will want to use fireworks across many different local authority areas. Our experience with licensing schemes for other processes is that there is a lot of confusion on the part of members of the community about where they must apply, what they must apply for and what the process is.

Having said that, we would also support a degree of flexibility, within clearly defined criteria, to allow exemptions to be applied, for example on gala days or for other social events.

Jamie Greene: That is great. Thank you for that. That is all I have for now, convener.

The Convener: I just want to clarify some of those questions and answers, for the record. The Government plans for licensing are to be in place by November next year. Its plan for this year is to have in place proxy purchase for under-18s by November 2022. I just wanted to clarify that point.

David MacKenzie, you were looking to come back in, but I do not know whether you wanted to comment or make another point.

David MacKenzie: My understanding is that the licensing scheme for buying fireworks will be a national scheme. We would strongly support that for consistency and so that all the legislation is in one place. The whole issue of firework zones is separate. It is more challenging and needs to be dealt with locally, as colleagues have said.

I just wanted to make that point. I am sorry if it is obvious and has been covered already. From our point of view, if sale by licence only, apart from exemptions, is to work in practice, the licensing system must be set up well, and we would strongly recommend a national scheme that is clear and uniform across Scotland.

The Convener: Thank you. It is helpful to get that clarification.

We will move on to looking at the restrictions around the use and supply of fireworks. I will bring in Fulton MacGregor first, and then Russell Findlay has some further questions.

Fulton MacGregor (Coatbridge and Chryston) (SNP): As the convener said, my questions are about restrictions on the use and supply of fireworks. The bill introduces various restrictions on the days and times when fireworks can be sold and used. The committee has had some concerns about that and we are looking for a wee bit more information that might alleviate those concerns. Are the witnesses content with the proposed restrictions? Do they strike an appropriate balance between allowing people to enjoy fireworks and reducing their misuse?

Chief Inspector Robison: Police Scotland would welcome clearly defined dates and times for the purpose of applying the proposed legislation. We would also encourage the public and people who intend to use fireworks and pyrotechnics legitimately to consider their application nice and early. We need to encourage planning for such proposed events.

Fulton MacGregor: I know that my colleagues who visited Blackburn heard some support for having local flexibility in the bill that could encompass some of the issues that we have been talking about in the committee, such as local gala days or sporting events that might be important to people in a certain area. Would you support that flexibility? What are your thoughts on that? I will start with Julie Whitelaw.

Julie Whitelaw: As I said, although we support a national scheme, we would also support some flexibility for local authorities to manage exemptions for local events such as gala days. Our view is that the criteria to apply those exemptions should be clearly set out to avoid any confusion among members of the public, and to avoid a flurry of applications that would have no prospect at all of success.

As I say, although we support a national scheme, we would also support a degree of flexibility for local authorities.

Fulton MacGregor: I see from the chat box that David MacKenzie wants to come in as well.

15:00

David MacKenzie: Yes. It is partly to talk about your previous point and partly on your current point. Our role is to do with sales and so on. We are aware of the need to balance the legitimate interests of business with the legitimate interests of consumers, particularly in relation to safety, given the topic. The banning of sales outwith particular days will have a significant effect on businesses that sell fireworks all year round. That needs to be taken into account, and it has been in the bill documentation. We certainly urge that the legitimate interests of such businesses should be taken into account.

We seek clarity so that the legislation is feasible and can be enforced well. Having particular days achieves that, and takes account of the cultural significance of bonfire night and the other celebrations that are recognised. We certainly think that that approach can work in practice.

Fulton MacGregor: I am glad to hear that. However, if the Parliament picks certain dates, might that open up the bill to criticism relating to other religious festivals or dates that might become important in the future? That is what the committee is grappling with. The more that I speak to witnesses on the issue, the more content I am becoming with the provision in the bill, because it seems to have widespread support from stakeholders. However, the committee is grappling with the question of whether it is best not to have any dates at all, and not to go into that minefield of picking the most important dates, because the relevant dates will be different for different people.

Alternatively, as I asked in my previous question, do we need more flexibility for local authorities so that they can judge local need? I know that I have already asked that, but I just wanted to set out where I am coming from with my questions, and where I think other committee members are coming from. Convener, I am well aware of the time and that that was more of a point than a question, so I am happy to pass back to you.

The Convener: Thank you, Fulton. Russell Findlay wants to come in.

Russell Findlay: My question leads into the next area in the running order, which is firework control zones. The question is primarily for Chief Inspector Robison. Earlier in the consultation process, it was proposed that there would be no-

firework zones, which have evolved into firework control zones. I wonder whether, from a policing perspective, no-firework zones would be a lot easier for people to understand and a lot easier to police.

Chief Inspector Robison: That goes back to the issue of communication with and awareness raising among the public, so that people have a clear understanding. I understand that the decision was made to reword the provision. We have no objection to the rewording to talk about firework control zones, as long as the communication to the public provides full clarity so that people appreciate exactly what that means.

Russell Findlay: I put the same question to the other two witnesses, if they have a particular view on it.

The Convener: David or Julie, would you like to come in on that?

David MacKenzie: I am not sure that I have anything strong to add on that question.

The Convener: Do not worry—that is no problem at all.

Russell Findlay: That is fine. Thank you.

The Convener: I will bring in Katy Clark, who has a question about imports.

Katy Clark: That is right—the question is for Police Scotland. What approach will it take to the import of fireworks? The most obvious example is that people could buy fireworks in England and bring them over the border.

Chief Inspector Robison: We are considering that while we are working through the bill; we are also considering the supply of fireworks by businesses in Scotland to addresses outwith Scotland. We are working through the concern that residents might purchase fireworks from outwith Scotland. If issues arose, our reaction and our response would all be intelligence based. We are considering the matter.

Katy Clark: When you are further ahead with your thinking, will you share information with the committee, perhaps in writing, if you cannot share more information now?

Chief Inspector Robison: Absolutely. We are considering the issue and I imagine that the response will be similar to that proposed during the coronavirus pandemic, when the suggestion was that people might cross the border when different restrictions were in place. I will keep the committee sighted on any developments.

Rona Mackay: I have a question that I meant to ask earlier about licensing. The initial proposal was that a licence would be valid for 12 months, but the intention now is that it could be valid for

five years, unless it was revoked. What are your views on that, given that five years is a long time during which lots of things can happen, such as someone getting a criminal record? I ask Chief Inspector Robison to respond first, please, followed by David MacKenzie and Julie Whitelaw.

Chief Inspector Robison: We want to discuss and work through collaboratively how the licensing system will work. If anybody has a relevant conviction in the period, how will that be reviewed? How will the system ensure that nothing is missed? We will consider that through continued collaborative working with the Scottish Government.

Rona Mackay: Does David MacKenzie have a view?

David MacKenzie: I echo what the chief inspector said. On the face of it, five years seems like quite a long time and one year seems quite short. I appreciate that, if a longer spell applies, the bill could contain robust provisions to take appropriate account of things that happen, such as people gathering convictions.

A fair bit more work needs to be done on the detail, as with everything that surrounds the mechanics of the licensing system, as I said. There is still quite a good bit of work to do, but it can be done properly.

Rona Mackay: Would Julie Whitelaw like to comment?

Julie Whitelaw: As has been mentioned, the mechanics of the licensing process need to be clarified. All licensing processes include a requirement to notify the local authority or the licensing authority when a relevant conviction occurs. That will need to be part of the process. There will need to be confidence in that being sufficient to manage any circumstances that occur in the five years.

The Convener: I will pick up quickly on the questions that Katy Clark asked about importing fireworks—from, say, south of the border. Do any panellists have views on the risk of that being linked with stockpiling ahead of bonfire night, for example? We have had a bit of evidence on that potential risk. I ask Chief Inspector Robison for any comments, and then I will come back to David MacKenzie.

Chief Inspector Robison: That is an issue that we identified in relation to paragraphs 25 and 26 of schedule 1, which cover the supply of fireworks by businesses in Scotland to addresses outwith Scotland. The policy memorandum might refer to enforcement of the existing provisions on the importation of goods, but the point that you make is worthy of note. We would work in collaboration

with our trading standards colleagues in that regard.

The Convener: David, do you want to come in on that?

David MacKenzie: I echo the point that we work closely with the police and the customs authorities on such matters. We have a significant role to play in the commercial import of products. Products in relation to which there is a high safety consideration are top priority.

I want to make another point about import. We are doing some work on the provisions that have already come in on fireworks, in relation to their being supplied to Scottish consumers by businesses elsewhere in the United Kingdom. Given that a lot of the wording around offences in the existing legislation and in the bill involves the use of the word “supply”, it seems fairly clear to us that there is a locus in Scotland for the sale of a product that has come from somewhere else in the UK—in other words, a product that a consumer has bought online and that is supplied to their house or wherever. We think that that is probably covered by the legislation, and we have discussed with colleagues in England and Wales the possibility of their engaging with businesses that are local to them that sell fireworks.

There is a variety of aspects here. We want the legislation to work for consumers in Scotland, but we do not want Scottish businesses to be disadvantaged by businesses elsewhere in the UK being able to sell to Scottish consumers in an advantageous way. We are very keen that the system that is proposed in the bill works properly for consumers as it is intended to and that Scottish businesses are not disadvantaged. Quite a bit of work is being done on that, but we see the potential for more to be done there.

The Convener: Thank you—those are important points to bear in mind.

Pauline, do you want to come in at this point?

Pauline McNeill: I am interested in how easy it will be to enforce a licensing scheme, with further restrictions on sales and the types of fireworks that people can buy.

I have a question for Chief Inspector Robison. There have been many incidents of fireworks being used at celebrations of football match results and at other events. A view could be taken of whether that amounts to antisocial behaviour. Some people think that there should be a complete ban, so we must be able to make the legislation work. In order to make the scheme work, would we have to have robust reporting of use of fireworks outwith designated periods, regardless of whether that use amounted to antisocial behaviour, or would Police Scotland

take the view that it would not be worth pursuing such cases?

Where I am coming from is this: in order to make the scheme work, if people are to be allowed to use fireworks on 37 days of the year, they would, in my view, have to be prosecuted for use of fireworks outwith those days. At the moment, fireworks are probably being let off illegally all the time. We have all heard them when there have been victory celebrations. That is certainly true in my city.

I am going off on a slight tangent, here. There have been responses from the public with people telling pet owners—of whom I am one—that they should just train their animals to deal with times when fireworks are being let off. Such people clearly do not know anything about what it is like to protect an animal that is frightened, or a child with autism—on whose situation we received evidence at last week’s meeting.

I take the view that letting off fireworks outwith specified periods—even if it does not amount to antisocial behaviour—should still be dealt with. Is that Police Scotland’s view?

15:15

Chief Inspector Robison: Absolutely. We would encourage communities to make us aware of incidents of people not adhering to the legislation.

Again, we hope that the legislation will support a culture change through which people recognise the impacts and dangers that fireworks and pyrotechnics can pose, and that it will, thereby, encourage responsible use of fireworks at organised events and through the licensing system. We hope that, through good communication—a communication strategy will be in place, with a multi-agency approach—the public will be made fully aware of the legislation and be encouraged to adhere to it.

However, if there are still issues in specific circumstances in communities, we need to know about them so that we can target appropriate responses at the individuals or groups who are involved.

The Convener: Rona Mackay wants to come in on this topic. I will then move on to questions about fireworks controls.

Rona Mackay: I have just a brief question. It just occurred to me that in my area a pop-up fireworks shop appears every year around October and disappears after 5 November. How would that kind of thing be affected? In terms of when people can buy fireworks, would temporary units that pop up then disappear still be viable? That is for David MacKenzie.

David MacKenzie: I presume that that kind of business could still operate and could sell during the proposed limited periods—which are probably the only times when they already sell, anyway. At the moment there are, essentially, two types of licence. Most businesses that sell fireworks, including supermarkets and small shops, do so only during specific limited periods. A relatively small number of businesses specialise in fireworks and sell them all year round; they need different authorisation and a different licence to do that.

I presume that pop-up shops could continue. They would need to get a licence to store and supply fireworks during the period. The local authority trading standards service would look carefully at business—[Inaudible.]—profits appearing out of the blue or whatever, when considering the new licence application. That would be given quite a lot of attention because, as we have said all along, safe storage and supply of fireworks are paramount for public safety.

I cannot see why pop-up shops could not continue to operate.

Rona Mackay: Thank you.

The Convener: I will move us on to control zones. We have a wee bit to get through, as we also want to ask questions about pyrotechnics and the financial implications. I will bring in Collette Stevenson, first.

Collette Stevenson (East Kilbride) (SNP): Good afternoon. Nicola Robison alluded to firework control zones, but I will pose my question to Julie Whitelaw, because it is more relevant to local authorities.

During the committee's recent visit to Blackburn, community representatives raised concerns about how firework control zones would be managed—and safely managed, at that. They expressed concerns about unintended consequences. For example, the zones would potentially attract people who want to use fireworks to generate confrontation—as has been experienced in the past—which has required the involvement of police and fire services.

Recently, there have also been concerns about focus on the zones being to the detriment of other areas, and about potential displacement of misuse of fireworks. What are your views on those issues, and how do you envisage the zones working in practice?

Julie Whitelaw: As has been mentioned, the firework control zones will work only as part of a suite of measures, such as licensing requirements, including the requirement to pay a fee, and restrictions on when fireworks can be purchased and used.

West Lothian Council is, in principle, supportive of firework control zones, provided that there is robust evidence and clear systems are in place to enable key partners and, importantly, communities to have a say. One of our concerns is that we foresee, if there is the ability to apply firework control zones, that many members of the community will apply to have a firework control zone applied in their community. Our view is that very clear criteria that are based on evidence are needed.

The council's view is that that approach would allow the communication that was mentioned earlier, awareness raising and planning for the likes of bonfire night by community safety partners. That is not only planning to deal with antisocial behaviour at those events, but for diversionary events. During the visit to Blackburn, the park and the skate park were mentioned, so there would potentially be the opportunity to put on diversionary events there to avoid those areas being used.

Obviously, there is a danger of diverting activity to other areas, but if the firework control zones are well publicised, community planning partners or community safety partners will have the opportunity to plan for the particular times when fireworks can be used and to look at how diversionary activity could support fireworks being used in different areas. We support the measure in principle, as part of a larger suite of measures that would be in place.

Collette Stevenson: On the demographics of East Kilbride, which is the constituency that I represent, 60 per cent of the population are over 50 years old. Would control zones be permanent or would you look, in your data gathering, at changing them each year? For example, there could be a new housing estate area. You are obviously commenting on behalf of West Lothian Council, but how do you envisage that being taken forward?

Julie Whitelaw: Some members of the community would want the arrangements to be permanent, but I suggest—on the basis that our view is that we should rely on robust evidence, intelligence and data gathering—that a review of firework control zones that had been implemented would be needed. That should happen after a specific period, with a requirement to review and reassess the intelligence and evidence. It would need to take into account other areas in the community that were being used or where there was misuse of fireworks.

One of the things that we have found most important in the Blackburn area is the community support for the BBNAG and the approach that the community has to raising awareness about fireworks-related antisocial behaviour. Again, I

note that awareness raising and communication will be very important as part of the suite of measures to make sure that there is community support for firework control zones.

Collette Stevenson: The intention of the bill is that the introduction of firework control zones will help to prevent high levels of unpredictable fireworks use. Do you think that the zones will contribute to misuse of fireworks? How can that be policed? That question is to Nicola Robison.

Chief Inspector Robison: There will be an impact on Police Scotland in terms of resources, depending on the size, location and duration of the zones. However, we support zones, because they will empower local communities, and there will be engagement with local authorities on the back of community concerns, as long as those concerns are proportionate to the size, location and duration of a zone.

Zones will give us another enforcement tool, alongside the licensing system, to reduce the antisocial behaviour that is created by misuse of fireworks. Because there will be engagement with local authorities and local communities, we would welcome consultation that involves us and colleagues—perhaps the Scottish Fire and Rescue Service—on the size, location and duration of firework control zones.

Collette Stevenson: Do you not see control zones as a reactive rather than proactive response?

Chief Inspector Robison: We would welcome any chance for an extra prevention opportunity in order to ensure public safety. Again, firework control zones would not exist as an entity on their own; they would complement the licensing system and other elements of the bill. It is important—certainly from a Police Scotland perspective—that there is not just one aspect to focus on; it is about the collective response.

Collette Stevenson: Does David MacKenzie want to add anything on control zones?

David MacKenzie: We are kind of on the periphery of that issue, but I have a couple of observations to make.

There is a lot to think about. It is thought that a lot of the antisocial behaviours are in urban areas, which is true, but there are rural issues with fireworks, too.

That leads on to my other comment. Whatever happens, the geographical area needs to be clearly defined: it might be a few streets in a city or several square miles up my way, in the Highlands. Quite a lot more work needs to go into that.

As I have said, our interest is in how fireworks are supplied and how that will interact with the bill.

Quite a bit more work needs to be done on some of the details.

Collette Stevenson: I have no further questions.

The Convener: I would like to keep things moving. We are just about at half past 3 but, if I may, I would like to carry on for another 10 minutes or so. It is important that we consider some more questions, in particular on pyrotechnics. I will bring in Russell Findlay on that.

However, before I do so, I have a question for Chief Inspector Robison in relation to our visit to Blackburn last week. Members of the Blackburn bonfire night action group raised with us their experience of promoting use of the Crimestoppers line as an option for community members to report issues with illegal fireworks anonymously, if they were worried about being identified. I am interested in your thoughts on community messaging as an option for when people want to report but they are a bit anxious about doing so.

Chief Inspector Robison: That is something that could be flexible, depending on the area and the communities within it. There are options for issues to be raised through community councils and pop-up events with community policing officers, which we encourage. However, if there is an anonymity aspect to an issue, Crimestoppers is an option. We would look at a flexible approach for each community and the best way to serve its concerns and issues. I encourage people to put concerns and issues to platforms such as community councils.

The Convener: That is very helpful.

I will bring in Russell Findlay to pick up some questions on pyrotechnics.

15:30

Russell Findlay: My question is for Chief Inspector Robison. As we know, pyrotechnics have become increasingly common in places such as football grounds in recent years. The Scottish Police Federation describes the way in which the bill is drafted as “convoluted”. Specifically, the federation says that, rather than the law allowing for pyrotechnics in certain circumstances, there should be a blanket ban on carrying them without reasonable excuse. As the federation puts it, police officers are not running about the countryside arresting people going up mountains or at marinas for being in possession of flares, because they have a reasonable excuse. Do you agree with the federation that the bill as drafted is flawed? Is Police Scotland speaking to the Scottish Government about that, as the federation is doing?

Chief Inspector Robison: On the proposed legislation, we would certainly welcome that additional tool in our toolkit in respect of the enforcement and prevention opportunities, particularly around pyrotechnic use among people going to football and other events. At the moment, although we have existing legislation that can be used to enforce in relation to pyrotechnics, that is generally at an event or within the event grounds. We have identified the trend in the use of pyrotechnics outside grounds, and I could give you a few stats on that.

We certainly support the proposed additional powers, which would give earlier intervention and prevention opportunities prior to people getting to an event. Obviously, that intervention would be completely proportionate and would be intelligence and evidence led.

Russell Findlay: Just to clarify, are you saying that you favour the bill as drafted? The current provision is about stopping people when they are going to a particular event. The federation says that that will create a problem—I think that it describes it as a “defence lawyer’s dream”—and thinks that it would be more sensible and workable to have a blanket ban on possession of pyrotechnics anywhere, with a defence of having a reasonable excuse. Is the federation correct? Is Police Scotland seeking clarification on the issue or requesting a similar change from the Scottish Government?

Chief Inspector Robison: We would absolutely work with the Scottish Police Federation. Obviously, we would not diverge from its opinion and we would work together to look at all aspects of the proposed pyrotechnics legislation. We have a number of comments on the general pyrotechnics aspects, and a lot of the evidence on that comes from the report that you have had sight of. Generally, we favour any additional tools that would help us to deal with possession of pyrotechnics, especially among people who are going to events.

Russell Findlay: To be clear, are you saying that you back what is proposed in relation to the provision on going to events and that you would talk to the Scottish Government and the federation about extending it?

Chief Inspector Robison: Absolutely. That would apply even in respect of clarity on and interpretation of the phrase “travelling to” an event, and in relation to the approach on assemblies and what happens to a group of persons when there is a 20th person—we need to work through how that would differ. We are in the process of engagement with the Scottish Government and other partners to work through that.

Russell Findlay: That is me finished, convener. I know that we are short of time.

The Convener: Actually, I will come back to you, Russell, because I think that you have questions on finance and funding. I am aware that you covered that to an extent, but I just want to check whether you would like to pick up anything further on that.

Russell Findlay: David MacKenzie touched on this, but I wonder whether Julie Whitelaw could give an indication as to what the financial implications would be for local authorities. Has that been calculated across the board by COSLA, or is that a work in progress?

Julie Whitelaw: It is fair to say that it is a work in progress. Some consideration has been given to what resources would be required. We would require resource for the analysis of the data, the consultation with communities that would be required and the publicity to raise awareness of any processes. We would also require resources to manage any licensing scheme or process that is put in place. Calculating the costs of that is still a work in progress.

The Convener: I think that David MacKenzie would like to come in on that.

David MacKenzie: Yes—very briefly. I talked about some of that earlier. I think that it is easier to calculate the trading standards costs. We have done that work in 2021-22 and we will, obviously, analyse that very carefully with the Scottish Government in relation to our other calculations. We should be able to come up with clear figures. We have already done that, but they will be finessed a bit on the basis of the experience of this year. That is a separate thing.

What Julie Whitelaw talked about is much more difficult to calculate, and that is very much work in progress. Our calculations are a bit easier to make within the overall context of our being—*[Inaudible.]*—which I talked about earlier.

The Convener: That is maybe brought out in your written submission, but reiterating that point is helpful.

Chief Inspector Robison: I would like to return to the question that I was asked and provide some additional information.

The Police Scotland short-life working group on pyrotechnics that was pulled together identified the potential benefits of a simple possession offence in relation to pyrotechnics, with a lawful authority/reasonable excuse provision to permit legitimate users to conduct their activities. That is a legislative format that is well established in other contexts and which officers are currently familiar with.

It is appreciated that the bill is intended to provide a proportionate response to the issues, including the evidence that is available from us. However, the more limited offence under section 33 in relation to pyrotechnics at specific types of events obviously presents a practical and evidential challenge for us. From a Police Scotland perspective, if the bill is not amended to introduce a broader and simpler possession offence, it is essential that the provisions that are passed, including those for any subordinate regulations or orders, are capable of being amended to address issues that may occur in the future. If that could be considered, that would be appreciated.

My final point relates to the evidencing that an article is indeed a pyrotechnic article. On that offence, it would be helpful to have a presumption of contents provision in the bill. The Pyrotechnic Articles (Safety) Regulations 2015 require legitimate pyrotechnics to be categorised by manufacturers and the name, type and category of article, among other things, to be correctly labelled. A presumption of contents provision would offer a simple mechanism for evidencing the nature of those articles.

Obviously, it is appreciated that homemade or illegally imported articles may not be correctly labelled and that they may require full scientific examination to determine their nature. However, that process involves articles being transported in person by officers to a specialist laboratory in England; it is costly in respect of officer time; it places an additional burden on specialist scientists; and it could slow the progress of potential criminal cases. In the absence of a presumption of contents provision, there could be a requirement to submit all pyrotechnic articles for such examination in order to prove an offence under section 33. If that could be avoided for a significant proportion of such articles, we would obviously welcome that.

The Convener: Thanks very much, chief inspector. That is a helpful overview. Would Russell Findlay like to come back in on that update from Nicola Robison?

Russell Findlay: Indeed. That is where I was going with the earlier questioning. It sounds like a lawyer has written quite a lengthy answer, which boils down to the preference for an absolute ban on possession, if that is workable, with the defence of reasonable grounds to have the articles. Is my understanding of what you read out correct?

Chief Inspector Robison: Yes. Obviously, we sought advice on aspects of the bill through our legal representation. We recognised that, currently, there is no possession offence or police search power in respect of the type of pyrotechnics that are generally seen at events in

Scotland, except as provided by the Criminal Law (Consolidation) (Scotland) Act 1995. We have looked at that and identified that there are potential issues that we would need to work through in respect of the bill.

The Convener: We have overrun, so I will bring the session to a close. Obviously, if there are any outstanding points that the witnesses would like to follow up with us, they should feel free to do so in writing, and we will be happy to take that evidence into account. I again thank our witnesses for attending the meeting.

That concludes the public part of the meeting. We will now move into private session to review the evidence that we have heard today.

15:40

Meeting continued in private until 16:14.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba