

Criminal Justice Committee

**14th Meeting, 2022 (Session 6), Wednesday
20 April 2022**

Fireworks and Pyrotechnic Articles (Scotland) Bill

Note by the clerk

Introduction

1. The Committee concluded its oral evidence taking on the [Fireworks and Pyrotechnic Articles \(Scotland\) Bill](#), on 30 March.
2. This paper sets out various pieces of supplementary written evidence from witnesses as part of the Committee's scrutiny of the Bill.

Supplementary written evidence

3. Following her oral evidence session on 30 March, the Committee wrote to the Minister for Community Safety, Ash Regan MSP, with a number of follow up questions on various issues. The Minister [responded in writing](#) on 6 April. A copy of this letter is attached at Annex A for information.
4. Following their oral evidence on 21 March, Police Scotland provided further written evidence in relation to their concerns regarding offences set out in Part 5 of the Bill on Pyrotechnic Articles at Certain Places or Events. This letters is attached at Annex B, for information.
5. The Committee undertook a fact-finding visit to Blackburn in West Lothian on 14 March, to meet with members of the Blackburn Bonfire Night Action Group (BBNAG). A note of the Committee's visit is attached in Annex C, for information.
6. Finally, the Committee also sought further information from the Crown Office and Procurator Fiscal Service on the number of fireworks and pyrotechnic offences in Scotland between 2016 - 2021. This information is set out in Annex D, for information.

**Clerks to the Committee
12 April 2022**

ANNEX A – Letter from the Minister for Community Safety

6 April 2022

Dear Convener,

Thank you for the opportunity for my officials and I to give evidence to the Committee on 30 March in respect of the Fireworks and Pyrotechnic Articles (Scotland) Bill, and for your follow-up letter. I have responded to the Committee's follow-up questions in the attached Annex and I hope my responses are helpful.

At the session, I committed to providing additional information from the Crown Office and Procurator Fiscal Service (COPFS) in relation to charges and convictions for firework related offences, as well as firework related incident data from Police Scotland. As I outlined at the session, the Scottish Government published an [evidence review](#) in 2019, to coincide with the publication of the 2019 consultation and representative opinion poll. Section 4.5 of the evidence review sets out that the most commonly reported fireworks related charges in Scotland are throwing, casting or firing a firework in a public place and underage possession of adult fireworks. It sets out the number of firework related charges between 2002/03 and 2018/19 and how these charges were dealt with by COPFS.

More recent available data from the COPFS and from National Statistics on Criminal Proceedings in Scotland show that:

- Over the last six years (2016/17 to 2020/21) the most common firework related charges relate to throwing, casting or firing a firework in a public place, under 18 in possession of an adult firework, and use of an adult firework at night. The table below sets out the number of charges annually over this period:

Year	Number of charges
2016/17	16
2017/18	35
2018/19	32
2019/20	24
2020/21	29
Total	136

Source: Crown Office and Procurator Fiscal Service

- Between 2010/11 and 2019/20, representing the latest available data, 297 people were either proceeded against in court or given a non-court disposal (such as a fiscal fine, restorative justice or recorded police warning) for fireworks related offences.
- Between 2010/11 and 2019/20, 44 people were proceeded against in court for fireworks related offences, of which almost nine in ten (86%) were found guilty. Of the 38 people convicted of a fireworks related offence over this period, over three fifths (63%) were given a fine, over a quarter (26%) were issued other sentences (such as an admonishment). The average fine issued for these

CJ/S6/22/14/6

offences was £146. All convicted individuals were male with an average age of 22 years.

- Of the 253 people issued a non-court disposal, almost half (48%) were given an Early and Effective Intervention, with around fifth each issued a Fiscal Fine (21%) or Fiscal Warning (20%). The remaining 11% were issued either a Police Restorative Justice Warning (5%), Recorded Police Warning (4%) or Police Formal Adult Warning (2%).

I would like to highlight that it is not possible to directly compare the charges data from COPFS and the data on proceedings from the National Statistics on Criminal Proceedings.

In relation to firework related incidents reported to Police Scotland, data was published by the Firework Review Group in their [final report](#). Page 11 sets out that over the 2019-20 fireworks period there were around 900 firework related incidents reported to Police Scotland, and that there is no clear evidence that the number of firework related incidents reported to the police is changing.

In addition, data covering the 2021/22 fireworks season (15 October to 12 November) shows that there were 609 fireworks-related incidents reported to Police Scotland. This is 365 fewer incidents than in 2020/21 (when figures peaked), a fall of 36.6%. The 2021/22 figure is the lowest recorded for the time series (beginning 2015/16), and follows two consecutive increases, before which there was no clear trend.

Table 1: Firework-related incidents reported to Police Scotland, 2015/16-2021/22

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
15 Oct – 12 Nov (inclusive)	798	732	924	885	911	974	609

Source: Police Scotland, STORM

Should the Committee need any further information please do not hesitate to contact me.

ASH REGAN

Annex

Fireworks and Pyrotechnic Articles (Scotland) Bill Criminal Justice Committee Evidence Session 30 March – follow up questions

Proxy purchase provisions

Q: At the meeting, you and your officials indicated that making this particular change to close the perceived loophole required primary legislation if done in Scotland and there were no alternative legislative avenues available to you under the powers available to the Scottish Parliament. Can you confirm that is the case?

A: The commercial supply of Category 2 or 3 fireworks to persons under 18 is prohibited under the Pyrotechnic Articles (Safety) Regulations 2010. It is also

CJ/S6/22/14/6

prohibited for any person under 18 to possess an adult firework in a public place under the Firework Regulations 2004. However, when an adult makes fireworks available to a person under 18 this criminalises the young person, via the prohibited possession offence. The introduction of this offence will ensure that adults who supply fireworks or pyrotechnic articles to children, under any circumstances, are held accountable.

The Scottish Ministers have limited powers to make secondary legislation under the Fireworks Act 2003. The powers under sections 2 and 4 (and related ancillary powers in sections 11 and 12) of that Act were conferred on the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004.

Section 2 of that Act provides for the making of Fireworks Regulations, and section 4 sets out detail of the provision that may be included in such Regulations. Section 3 of the Fireworks Act 2003 provides that Fireworks Regulations may include provision restricting the supply of fireworks to persons under a certain age. However, section 3 is not a power that has been transferred to the Scottish Ministers as outlined above.

Even were the powers in section 3 exercisable by the Scottish Ministers, Section 1 of the 2003 Act provides that references in that Act to “supply” of fireworks do not include supply other than in the course of a business. These powers also relate only to fireworks, and do not apply to the supply of other pyrotechnic articles.

Q: Your officials stated though, that such a change could be made by the UK Government (I believe they said by secondary legislation). Have you discussed such a change with the UK Government? If so, what was their response? If not, can you outline the reason there was no engagement.

A: I met with my counterparts from UK Government (Paul Scully MP, Minister for Small Business, Consumers and Corporate Responsibility) and Welsh Government (Lesley Griffiths MS, then Minister for Environment, Energy and Rural Affairs) in January 2021 to discuss the work I am progressing in Scotland following the recommendation of the Firework Review Group. At this meeting, in the absence of a commitment by the UK Government to tighten firework regulations in England and Wales, the Welsh Government requested that the UK Government consider transferring the relevant powers to Welsh Ministers to enable Wales to take forward regulatory change in relation to fireworks; and it is my understanding this has not been forthcoming as yet. We have engaged with the UK Government throughout our journey on firework safety but these engagements have not prompted the UK Government to bring forward any changes to existing legislation.

As set out above, the powers of the Scottish Ministers are limited compared to the powers of the UK Government under the 2003 Act. It would, of course, be a matter for the UK Government to reach a final view on how they could exercise those powers.

Delivery and implementation

The Bill will establish a package of detailed systems to address firework and pyrotechnic use and misuse. These will require substantial further guidance and consultation, and involve multiple stakeholders (including the police and fire services, local authorities, the fireworks and pyrotechnic retail industry, trading standards, community safety partnerships).

CJ/S6/22/14/6

Q: How do you plan to effectively coordinate the logistical delivery and implementation of these systems and clearly communicate them to the public? How will Ministers monitor the delivery and implementation and report to Parliament and the wider public?

A: The Bill has been developed over the course of 3 years with significant public consultation, evidence gathering and involvement of stakeholders. As with all new legislation and new processes and procedures we will continue that approach in taking forward implementation. In terms of communication, this will be vital. People need to clearly understand when changes in the law are implemented and what this means for them. A key part of this will be utilising and building on the three established annual communication campaigns the Scottish Government runs every year; alongside the networks and routes of communication of our partner agencies, including local authorities and community councils. As set out in the Business and Regulatory Impact Assessment, it is intended that a review of the measures introduced will be undertaken within 3-5 years of implementation to check that requirements are being met and that the legislation is working effectively. This will, of course, be in addition to regular monitoring of the impact of the provisions by partners such as Police Scotland and Trading Standards.

Firework control zones

Q: How do you envisage firework control zones contributing to a reduction in the unpredictable use of fireworks? Is there evidence that such zones have been effective in reducing unpredictable use of fireworks in other jurisdictions?

A: The Bill provides local authorities with the power to designate a place, or places, within its area as a firework control zone, where it will be an offence for the general public to use F2 and F3 fireworks, including on private property. It will still be possible for public firework displays, whether organised by a professional firework operator or by a community group, to take place within a firework control zone, subject to local licensing arrangements. This is to ensure that well organised public displays can continue. This is in line with the clear message from the 2019 public consultation where the value of well organised public displays was highlighted in bringing communities together and having positive community benefits.

It will also be possible for members of the public to arrange for a professional to organise and put on a private display within a firework control zone. I consider that this represented a balance between allowing certain firework events to continue and reducing the impact on businesses involved, while reducing high levels of unpredictable firework use. However, as I outlined to the Committee, I remain open to the views of the Committee on this; and I am open to considering whether this exemption should be retained.

Overall, firework control zones will mean that the use of fireworks may still take place, but their use overall within any designated area will reduce, along with the associated noise and disturbance including, for example, within set distances of specific locations such as animal shelters, livestock or hospitals to protect those who may be adversely impacted by the noise and disturbance of fireworks. In operation, clear communication will be vital to ensure that people understand if they are in a control zone and the implications of that, as well as to ensure an understanding of existing legislation (i.e.

CJ/S6/22/14/6

that they are not able to use fireworks in a public place in any area – whether it is designated as a zone or not).

[International case study research](#) was commissioned by the Firework Review Group while it was undertaking its work. This was to consider the approaches that were in place internationally to, where possible, identify the actual benefits and drawbacks experienced by other countries with similar measures in place to those being considered by the Review Group. There were two countries included within the international case study research where restrictions were introduced on the use of fireworks within certain areas – Germany and the Netherlands. In Germany, firework free zones were introduced in 2019 in Berlin and Munich. While indications are they were successful, they are not directly comparable to what is included within the Bill, as they included restricting the use of fireworks in public places which is already illegal here. In the Netherlands, a number of areas have introduced restrictions on the use of fireworks near shopping centres, nursing homes, animal shelters, and historic buildings and monuments. These have been introduced alongside a range of other restrictions so it is not possible to determine any definitive impact.

Q: Similarly, how do you envisage firework control zones contributing to a reduction in the misuse of fireworks?

A: Local authorities will be able to take into account particular vulnerable populations, as well as concerns about disorder and anti-social behaviour connected with firework use in a particular area, when determining whether to designate an area. While existing legislation is in place, and will remain in place, prohibiting the use of fireworks in a public place; firework control zones provide an additional tool for national and local community safety partners when considering the range of preventative and diversionary strategies they utilise in planning and preparing for the safe and considerate use of fireworks within communities.

Q: Can you expand on the criteria for, and consultation process to be undertaken prior to an area being designated as a firework control zone? For example, who will be consulted and who will make the decision on whether an area is to be designated as a firework control zone?

A: The Bill sets out a robust process for designating a firework control zone that requires a local authority to:

- Set out and publish its proposal for designating a zone, including the days the zone is to have effect;
- Undertake consultation on these proposals before a zone can come into effect;
- Publish its decision following the consultation and do this at least 60 days before the zone can come into effect; and
- Carry out a review of the operation and effectiveness of its zones, and publish the findings from this.

The ultimate decision on designating a zone lies with the local authority; and the Bill sets out a robust process that a local authority must follow when considering and making such a designation. The Bill does not set out any specific mandatory consultees, but sets out that this should include people who live or work in the proposed area, other members of the local community who live in or near the proposed

CJ/S6/22/14/6

area and any other bodies the local authority considers relevant before making a designation in respect of that area.

Section 30 of the Bill enables further requirements to be set out, if required, in relation to the consultation process and the reviewing and reporting on the operation and effectiveness of zones by local authorities. It is intended that the guidance will be developed to provide further detail to local authorities on operationalising firework control zones and that this will cover issues such as:

- The types of issue which may be suitable to be addressed through firework control zones;
- The evidence that a local authority may consider in deciding whether to designate an area as such a zone;
- The criteria to determine whether a control zone is necessary and proportionate; and
- Examples and good practice in relation to those who should be consulted as part of the process of considering designation.

Q: The Bill provides that local authorities will be required to review the operation and effectiveness of firework control zones, but it does not specify when such reviews should be carried out. Could you confirm whether there will be a limit on the length of time that an area can be designated as a firework control zone? Could you also confirm the criteria that will be used to determine whether a firework control zone is still required in a certain area? Will that criteria be uniform across the whole country, or will local authorities be given the power to determine such criteria at a local level?

A: The Bill sets out a robust process that a local authority must follow for designating a firework control zone, including mandatory consultation and review processes, as outlined above. While the Bill does not set a maximum time a control zone can be in place for, these requirements mean that the evidence and impact will be reviewed regularly, ensuring that control zones are in place only while there is a strong justification to have them. Section 29 (4) of the Bill sets out that the Scottish Ministers have the power to impose and specify a minimum frequency for reviews, if this is required.

As outlined above, it is intended that guidance will be developed to provide further detail to local authorities on operationalising firework control zones and that this will cover issues such as the criteria to determine whether a control zone is necessary and proportionate both in relation to the initial designation and to the review of such zones.

The accompanying guidance will be important in supporting local authorities to deliver a degree of consistency of approach between different areas, while having discretion to apply their own approaches to reflect local circumstances. This guidance will be developed in collaboration with local authorities, community groups and other relevant stakeholders.

Q: Can you set out the Government's timeline for having the necessary regulations in place to allow local authorities to designate areas as firework control zones?

A: If the Bill is passed, time will be required to develop and publish guidance, and prepare any required secondary legislation, to support local authorities. It is therefore

CJ/S6/22/14/6

expected that local authorities will have the power to consider designating firework control zones during the 2023/24 financial year.

UK Internal Market Act 2020

Q: Can you confirm if discussions have taken place with counterparts in the UK Government on the possibility of the Bill engaging provisions within the UK Internal Market Act 2020? ('the 2020 Act')

A: As highlighted earlier, I met with my counterparts from UK Government (Paul Scully MP, Minister for Small Business, Consumers and Corporate Responsibility) and Welsh Government (Lesley Griffiths MS, then Minister for Environment, Energy and Rural Affairs) in January 2021 to discuss the work I am progressing in Scotland following the recommendation of the Firework Review Group. At that stage, the UK Government were working on a proposal for the way in which the exclusion process within the 2020 Act may operate. Given the lack of tangible progress following the request from the Welsh Government for the transfer of relevant powers in relation to fireworks, and our fundamental opposition to an Act that was imposed without consent, undermining the devolution settlement, I did not consider an exemption to the Internal Market Act to be an option. My priority was to progress the legislation that is required in a timely and effective way.

Q: Has the UK Government raised any concerns with Scottish Ministers about the provisions in the Bill possibly interacting with the 2020 Act, and if so, what are they, and how will they be resolved?

A: I can confirm that no concerns have been raised with me from my counterparts at Westminster in relation to the Bill provisions interacting with the 2020 Act.

Q: Are you confident that the provisions in the Bill will not be subject to challenge with regard to the provisions of the 2020 Act?

A: The potential impacts of the Internal Market Act have been fully considered as the Bill has been developed; and we are confident that the provisions within the Bill adhere to the requirements that are set out in that Act. For example, the licensing system has been designed specifically to ensure that it does not engage the mutual recognition principle which sets out that goods that have been produced or imported into the UK should be able to be sold in any other part of the UK, free for any relevant requirement.

Financial issues and delegated powers

During our visit to Blackburn the Committee heard of the importance of proper funding for community police and fire liaison officers, community safety partnerships and local community groups to deliver on effective culture change around the misuse of fireworks.

Q: Could you please confirm whether you will be seeking additional funding from Government for the period of implementing and delivering the new fireworks provisions to support these partners in implementing the provisions, or will key partners be expected to find resources from within their existing budgets?

CJ/S6/22/14/6

A: Additional funding has been included in the Safer Communities budget line for 2022/23 to support immediate development and implementation of the measures within the Bill. The main anticipated costs will be commissioning the IT licence system for the fireworks licensing system and managing this process; and, of course, careful consideration will be given to other partners and agencies that may require additional funding.

In their report to the Committee on the Bill, the Delegated Powers and Law Reform Committee has recommended that four of the order making powers in the Bill which are subject to negative procedure be amended to affirmative procedure so that they receive a more detailed level of parliamentary scrutiny.

Q: Could you please confirm whether you accept these recommendations and, if so, whether you intend to bring forward the necessary amendments at Stage 2?

A: I welcome the report from the Delegated Powers and Law Reform Committee, and thank them for their consideration of the regulation making powers contained within the Bill. I am carefully considering the recommendations made by the committee which relate to amending regulation making powers from the negative to affirmative procedure; and will make a decision on this in due course. I accept, and understand, that Parliament may wish to undertake more detailed scrutiny of how the fireworks licencing system operates as well as the compensation scheme; and will give this very careful consideration.

The Finance and Public Administration Committee highlighted comments to the Committee which it received from the Scottish Fire and Rescue Service on a factual error in the Financial Memorandum.

Q: Could you please confirm whether you intend to amend the Financial Memorandum at Stage 2 to clarify the issue raised?

A: I am aware of an error within the Financial Memorandum in relation to the number of fire incidents with fireworks as a contributing factor and I thank the Scottish Fire and Rescue Service for highlighting this. The Policy Memorandum has the correct figure of 342 incidents over the last 10 years while the Financial Memorandum incorrectly states this as an average of 342 incidents annually. I will arrange to have the Financial Memorandum corrected as soon as possible.

ANNEX B – Letter from Police Scotland

25 March 2022

Dear Convener,

FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) BILL – POLICE SCOTLAND SUPPLEMENTARY INFORMATION

I refer to the ongoing scrutiny of the above Bill by the Criminal Justice Committee and wish to bring to your attention some additional information to supplement the oral evidence given recently by Chief Inspector Nicola Robison.

In relation to the illicit use of fireworks and pyrotechnics, Police Scotland's preferred solution is the use of education and engagement to promote a prevention message and to encourage users to act responsibly. It is therefore important to note that we do not seek additional police powers without a firm belief that they are necessary and proportionate to the risks posed by fireworks and pyrotechnics. However, it is our belief that for those individuals who remain resistant to prevention messaging, additional enforcement options are necessary.

Police Scotland's view is that current legislation has gaps which, if filled, would allow our officers to deal with the illicit use of fireworks and other pyrotechnics more proactively and more safely. As such, Police Scotland has for over five years been exploring the potential for the introduction of a possession offence in relation to pyrotechnics, along with an associated search power. Similarly, Police Scotland has been working with Scottish Government and other partners for many years to enhance the safe use of fireworks.

At the Committee session on 21 March 2022 there was discussion regarding the options for legislative change in relation to pyrotechnics. This firstly related to the possession offence as published in the Bill in relation to specific types of event and secondly there was discussion regarding a 'simple possession' offence in relation to public places with a 'lawful authority / reasonable excuse' clause, as favoured by the Scottish Police Federation (and referred to as a blanket ban during the evidence session). It is anticipated both would be accompanied by an associated search power and it is desirable that both would be accompanied by a presumption of contents clause.

Police Scotland acknowledges the care that has been taken to ensure the provisions within the Bill are proportionate and also concedes that the evidence available from police systems is largely limited to the risk of fireworks and pyrotechnics at various events, rather than across society more generally. As an evidence and rights-based organisation, Police Scotland must be mindful that, while having the wider powers referred to as a blanket ban is attractive in terms of being a practical method of reducing the impact of the illicit use of such articles, the majority of people use these articles safely and responsibly.

However, Police Scotland in its previous submission to the Committee highlighted that its own short life working group in 2017 identified that a 'simple possession' offence with a 'lawful authority / reasonable excuse' clause would be beneficial. Police Scotland also highlighted that there may be operational challenges with the Bill as published around, for example, the definition of a public assembly, evidencing that a person is in the immediate vicinity of an event and the need for the legislation to be readily amended to address other emerging problematic classes of events or patterns of behaviour.

It is likely that a 'simple possession' offence for pyrotechnics in a public place with a 'lawful authority or reasonable excuse' clause would be more straightforward for Police Scotland to apply than the provisions in the Bill and we are confident that this would still strike a balance between continuing to permit legitimate use of pyrotechnics, whilst addressing their illicit use.

Restricting the 'simple possession' offence to public places provides a safeguard against any over-reach into individuals' private space, while the 'lawful authority / reasonable excuse' clause gives scope for professionals to continue to use these articles and for leisure users such as sailors, to have the safety equipment they need. This type of clause is well-established in policing and it is therefore anticipated that it could be implemented without any need for extensive additional training or any significant change to operational practices. A wider 'simple possession' offence also removes concerns over the timescales for reacting to emerging patterns of behaviour in circumstances where additional types of event or other societal contexts see an increase in the illicit use of pyrotechnics.

For these reasons, Police Scotland would welcome any proposals to amend the Bill to include a 'simple possession' offence and our position on this has been communicated to the Scottish Government for consideration.

In relation to cross border matters, the introduction of new legislation as outlined in the Bill, may generate occasions where individuals will attempt to circumnavigate the restrictions to their own advantage. An example of this could be cross border supply, where individuals or businesses may look to other areas within the United Kingdom to obtain fireworks out with the restricted dates imposed by regulations outlined in this Bill, resulting in potential stock piling. If intelligence of this nature were received, Police Scotland would work with partners, primarily Local Authority Trading Standards, to assess the circumstances and take appropriate and proportionate action.

The potential for cross border movement to circumvent legislation in Scotland is not new and was recently considered in relation to the Minimum Unit Pricing of alcohol where Public Health Scotland found there was little evidence of this affecting alcohol consumption in Scotland ([Cross-border purchasing unlikely to affect alcohol consumption - News - Public Health Scotland](#)).

Similarly, differing regulations in Scotland and England, introduced to reduce the spread of Coronavirus, created a potential for cross border displacement. This was monitored by Police Scotland and partners and any issues were addressed as and when they were identified. Any cross border issues which arise as a result of the regulations proposed in the Fireworks and Pyrotechnic Articles (Scotland) Bill will also be considered and addressed through a multi-agency approach, as appropriate through established channels.

If you require any further information, please do not hesitate to contact me.

Yours sincerely

Emma Bond MBE
Assistant Chief Constable
Partnerships, Prevention and Community Wellbeing
Police Scotland

ANNEX C – Note of the Committee’s visit to Blackburn, West Lothian

Criminal Justice Committee

Fireworks and Pyrotechnic Articles (Scotland) Bill 2022

Note of the Committee visit to Blackburn, West Lothian to meet with Blackburn Bonfire Night Action Group (BBNAG)

Monday 14 March 2022

Introduction

On Monday 14 March 2022, a delegation from the Criminal Justice Committee of the Scottish Parliament visited Blackburn in West Lothian to meet with members of the Blackburn Bonfire Night Action Group (BBNAG). BBNAG was established in early 2019 to develop a community-based response to the growing problem of fireworks misuse and anti-social behaviour in the Blackburn area.

Members of the BBNAG who attended the meeting were-

- Councillor Kisteen Sullivan, Deputy Leader of West Lothian Council (Whitburn and Blackburn Ward)
- Councillor George Paul (Whitburn and Blackburn Ward)
- Alison Kerr, Community Action Blackburn, Community Council Management Committee and resident
- Brendan Moohan, West Lothian Council Community Learning and Development Youth Team
- Gary Stoddart, West Lothian Council Housing
- Helen Davis, Youth Action Project
- Lisa Haggerty, Community Action Blackburn
- Liz Kerr, local resident member of BBNAG
- Michelle Kirkbright, West Lothian Council Community Regeneration Officer
- Paul Harvey, Scottish Fire and Rescue Service
- Sgt Keith Jack, Police Scotland
- Traci Mackie, Blackburn Family Centre
- And four students from [St Kentigern’s Academy](#) in Blackburn

Members of the Criminal Justice Committee and parliamentary staff who attended were-

- Audrey Nicoll MSP (Convener)
- Russell Findlay MSP (Deputy Convener)
- Collette Stevenson MSP
- Seán Wixted, Assistant Clerk to the Committee
- Suzanne Lyden, Committee Assistant to the Committee

CJ/S6/22/14/6

- Kate Smith, Parliament Community Participation Specialist

Overview of discussion on BBNAG's work

Sgt Keith Jack of Police Scotland, Alison Kerr and Lisa Haggerty began by giving a presentation into the background of the BBNAG group, and the experience of the local community around the growing problem of anti-social behaviour in Blackburn involving the misuse of fireworks.

There had been use of fireworks misuse by individuals at various times of the year, especially around Bonfire Night on 5 November. However, over a number of years the anti-social behaviour around bonfire night became more intense and problematic.

By 2017, the anti-social behaviour had developed into large-scale gatherings of people in open public spaces in the town, notably King George V Park and the Skate Park in the town. This involved a large number of people setting off fireworks with some hundreds more people coming to watch this. These people were both from Blackburn and the wider West Lothian area.

Police Scotland were required to deploy officers in riot gear to deal with public order incidences and to protect members of the SFRS who were attending call outs in the area. Several members of BBNAG described the scenes which occurred in 2017 as "like being in a war zone". Locals involved in the disorder were more familiar with local access routes in and around the village, especially King George V Park and the Skate Park.

This led to anti-social behaviour with the use of fireworks spreading into several residential areas, being lit and thrown at police, residents' homes and traffic on the main street. As a result of these issues, BBNAG came into being with members from Police Scotland, Scottish Fire and Rescue Service, West Lothian Council, local community groups and local residents. It met for the first time in 2017.

In 2018 police in riot gear had to be called to Blackburn to deal with the level of anti-social disorder. However, the community felt this exacerbated the problem, with a 'running battle' scenario developing and fireworks being thrown at peoples' homes.

The people involved in the anti-social disorder knew the local area far better than the police who'd been brought in to deal with the issue. So, the police and emergency service response was reactive and one step behind.

On 25 April 2019 the BBNAG group met to plan for the 2019 Bonfire season and to look to find practical solutions for the problems in the town and head off the problems from previous years. BBNAG met monthly from April to November to plan for the upcoming Bonfire season. This included-

- Considering the use of existing anti-social behaviours legislation¹ to have a Dispersal Order granted for the town. BBNAG held six consultations with various partners and locals in the town on a Dispersal Order, giving police the power to disperse groups.

¹ Antisocial Behaviour etc. (Scotland) Act 2004: <https://www.legislation.gov.uk/asp/2004/8/contents>

CJ/S6/22/14/6

- Unfortunately, four to six weeks before the 2019 Bonfire season BBNAG partners were advised that legal advice indicated that the Dispersal Order could not be granted because the problem of anti-social behaviour in the town was not classed as “persistent”.
- BBNAG also looked to develop a range of diversionary activities for young people in the town to coincide with the days running up to Bonfire night, and the days.
- This included providing Livingston Centre Shopping vouchers for young people around Bonfire Night, and other incentives for various activities.
- The local community council, Community Action Blackburn (CAB) delivered a leaflet to every house in the town, and all schools were visited, as part of the communications plan to engage the whole community in planning for the Bonfire season;.
- 50 young people came to the first BBNAG engagement activity, and more began to attend. The last such meeting was held in early 2020 as COVID and the lockdown disrupted this work. BBNAG had to suspend its activities, but is hoping to resume again in 2022.

Since BBNAG began its diversionary activities, anti-social behaviour in the town has decreased. While the visible police presence agitated anti-social behaviour in November 2018, in 2019 the situation was much better for both local residents and young people. There was a noticeable decrease in anti-social behaviour involving fireworks. This was largely thanks to the diversionary activities of BBNAG and the local community work to engage with the local community and schools.

However, it is important to state that was only achieved because of a lot of coordination work between BBNAG, the local police and fire services, the local council and community youth action groups. This was in the face of ongoing cuts to Council budgets for community support and activities.

Lots of local people knew about anti-social behaviour activities in their area, but few people reported them as they were afraid of getting involved. But a concerted effort by BBNAG and local elected councillors in the promotion of the use of the anonymous *CrimeStoppers*² (0800 555 111) number to report incidences to the police was a big success.

Local Councillors for the Blackburn & Whitburn ward coordinated with BBNAG and organised various clinics in areas such as local shopping centres and community centres to promote BBNAG’s work, and especially to encourage the anonymous reporting of any firework misuse through the *CrimeStoppers number*.

This provided much needed data and intelligence for both the police and the fire service to deploy their resources to intervene appropriately to proactively diffuse trouble in advance of Bonfire Night/Week, as opposed to try to react to issues on the night. BBNAG needed to do lots of ongoing engagement with the community,

² CrimeStoppers now has a dedicated section on reporting Fireworks Misuse in Scotland: <https://crimestoppers-uk.org/campaigns-media/campaigns/scotland-firework-misuse>

CJ/S6/22/14/6

and planning of diversionary activities, in order to stop a build-up of frustration amongst young people and community members leading up to the Bonfire season.

One of the key signs of the success of this approach was measured over a five year period from 2016 to 2021 on the number of calls received by the police or fire service to fireworks misuse.

In 2016 the level of calls received from the Blackburn area on fireworks misuse was low (about 10 calls) and the majority were from one service reporting an issue to another (i.e. police informing the fire service of the need for a call out).

By 2021 the number of calls from Blackburn has quadrupled, with nearly 40 calls received, of which over 30 were anonymous calls from members of the community reporting misuse through CrimeStoppers, or reporting where people were illegally selling fireworks (e.g.: from someone's house/pop-up shop or 'white van man'). This was described as an "unheard of" level of community response/engagement in the area.

The approach from BBNAG has been driven from the bottom-up as a community plan, and this has been key to its success, especially in getting community buy-in and participation.

While West Lothian Council and the local police and fire service are anxious to use the Blackburn model to address firework misuse more widely in West Lothian, this proved hard to replicate elsewhere as many of those communities do not have a BBNAG-style group to carry out the engagement work;

The Committee members heard that fireworks misuse is just one means by which anti-social behaviour comes out, and only at a specific time of the year. On Bonfire Night 2018 there were over 300 young people in Blackburn taking part in anti-social behaviour. The majority of these were not from the town but the wider area.

Also, many were not there to misuse fireworks, but to observe misuse and any subsequent confrontation which may take place between a very small group involved in letting off fireworks and the police or fire service. This form of mass anti-social behaviour terrified locals.

But in 2019 BBNAG estimated fewer young people were involved in fireworks misuse as diversionary events and other mitigations has helped head off a lot of the issues.

One of the key lessons learned by Blackburn was that school engagement and community diversionary activities are not primarily aimed at those intent on misusing fireworks. Instead it draws away the vast majority of the 'audience' of onlookers who may gather to observe misuse. This 'takes the heat' out of the situation and the hype which can build around Bonfire Night;

If this model is to be successfully replicated in other communities, then the drivers of change must be local. Communities must be encouraged to take part creating their own solutions, and it should not be top down plans designed by agencies and authority figures. Local community members and young people must be

represented and involved in designing the solutions to ensure the community gets involved and it is a grass roots approach which reflects the needs of the local area.

As part of the discussion, the issue of Firework Control Zones (FCZs) - as proposed in the Bill - was discussed. Some were not convinced how FCZs would be policed. Part of what excited those involved in fireworks misuse/anti-social behaviour was getting chased by the police, or getting the fire engines called out to an incident. Some of the participants in the meeting felt the establishment of formal FCZs could have the reverse effect and create a magnet for firework-related anti-social behaviour as those involved may see such a Zone as the best place to attract the attention of the police and fire services.

Some felt that many local people may not like having a Zone placed near their homes, as it may act to displace firework anti-social behaviour to other neighbourhoods which may impact people not currently experiencing high levels of fireworks misuse.

Others felt the creation of a FCZ may have a stigmatising effect on a community and make them feel that communities like Blackburn are hotspots where people from other communities may come to take part in anti-social behaviour, including misusing fireworks.

Paul Harvey, the local liaison officer from the Scottish Fire and Rescue Service gave the group a virtual walkabout of the key areas where there is firework-related anti-social behaviour. Two key areas for firework-related anti-social behaviour is King George V Park (KGVP), a public part in the town and the [Blackburn Skatepark](#), a recently developed skate recreation area, about half a mile away from the Park. These have become key hotspots in Blackburn. One of the key problems is the movement of people involved in firework misuse between the Park and the Skatepark, which involves people passing through residential areas.

The SFRS notice a higher level of call outs in the area when Bonfire Night falls on a Friday. The SFRS will start its school engagement programme on bonfire misuse around Aug/Sept each year and will promote BBNAG-organised events around Bonfire Night. The SFRS also works with the Council to remove bonfire-able materials from the locale, which act as an attractor for anti-social behaviour.

BBNAG noted that some organised fireworks events are costly to attend, and may be out of the reach of many people in the Community. It is important to consider the quality of the community events being organised to dissuade people from holding their own unofficial events, which leads to firework misuse.

The SFRS noted that while Bonfire Night/5 November is their single busiest night for fire call outs, the busiest time of the year for anti-social fire setting is from March to May/June. This may be because of emerging from the winter period gives rise to more anti-social behaviour. So while the majority of fireworks misuse is around 5 Nov, most anti-social behaviour fire incidents are not connected to Bonfire night.

Some members of BBNAG questioned whether the police will have the resources or personnel to effectively stop and search/and seize fireworks as provided for in the Bill. Having Community Police officers is vital to making BBNAG's work happen. There

CJ/S6/22/14/6

was a worry that the Bill does not provide additional support for communities to make the provisions in the Bill work on the ground, such as community policing or support for community groups.

One of the key fears expressed around FCZs was that they may generate a public expectation that local police and fire service resources will be focussed on the Zone to the detriment of other areas. Depending on whether such Zones act as magnets for firework anti-social behaviour, or displace firework anti-social behaviour to other areas, this could present real problems for the emergency services.

General Q&A on the Bill

The following is a summary of the issues which were raised in a general Q&A-

- On the supply of fireworks, there were some local hardware shops which sold fireworks, but these were seen as responsible sales outlets.
- There was no clarity on how the Bill might impact the supply of fireworks from supermarkets, or from pop-up-shops which usually set up around Bonfire nights.
- The public BBNAG meetings in 2017 pointed to the fact that ‘white van man’ was the biggest problem in terms of the local supply of fireworks. But this pattern has changed in recent years as more local people use the CrimeStoppers number to anonymously report when they see ‘white van man’ sales.
- The majority of young people were now getting fireworks by buying them online.
- There was a concern expressed that if more people turn to online purchase of fireworks to get around the supply restrictions in the Bill it would take money out of the economy of the local community and could see the demise of responsible local firework sellers over irresponsible online sales.
- It is very important not to stigmatise or demonise young people when speaking about fireworks misuse. This is an “adult problem”, as adults manufacture, import, sell and provide fireworks to young people. There is a very small minority of young people involved in fireworks misuse. The current debate is widely demonising young people.
- A key issue to address is to educate adults and parents about their attitude to fireworks and the dangers of providing them to their children.
- The Committee heard that some parents bought fireworks and used social media, such as Snapchat to sell them to other parents and people in the community. It was felt the small number of young people involved in fireworks misuse were getting those fireworks from adult family members.

- It was felt that people will also find a way around supply control mechanisms in the Bill. There was one local case of an adult selling fireworks from his house to young people in the area. That is a policing issue. The police need to rely on local information and intelligence about those providing fireworks.
- There was some discussion around whether low noise fireworks would work in reducing the impact on people and pets. Major named retail chains in the local community had trialled selling low noise fireworks in 2020. However, these were not effective as they didn't fulfil the 'bravado' need of some looking to use fireworks as they just sourced what they wanted online.
- The Scottish Government needs to work with the Royal Mail to control the delivery of age restricted items, such as fireworks, from online purchases as these packages have to be signed for on delivery.
- There was a general feeling that the provisions in the Bill on licencing, and types of firework (Cat F2 and F3) was too confusing for lay people to understand and that a really good communications plan is needed. Many local people will turn to groups like BBNAG for help to understand the new fireworks regulations and legislation. If the members of BBNAG find the system confusing and can't answer their questions, people will not have faith in the system.
- Key annual events in Blackburn are used by BBNAG to engage with people on fireworks etc, so knowledge of the Bill is key. Sending mixed messages will destroy the trust people have in the work of BBNAG. People will expect groups like BBNAG to know what's in the Bill.
- The SFRS need to know who is selling fireworks and, at present, they know all the retailers involved. If the Bill changes the patterns of supply, this would be a concern.
- Some people felt a 5 year licence for fireworks is too long a period of time. There were questions about whether licence holders would sell their licences to others who would then use them to buy fireworks to sell illegally. Who would be held liable in this situation?
- There must be more government investment in community structures and groups, as they will be central to making the provisions of the Bill work. Fireworks misuse is a part of a wider social issue and tackling it requires funding.
- Groups like BBNAG can do a lot even with small amounts of funding. It delivered its diversionary programme of events for a year on less than £2,500. That's not a lot of money and it saved the SFRS a lot of money as it led to a reduced level of call outs during Bonfire season.
- School engagement sessions by the SFRS on fireworks are good. However a lot of the problems with young people misusing fireworks is

because its learned behaviour from adults in their home. Changing adult behaviour is key to change.

- It's important to show the consequences of what happens when you throw a firework at someone's door – pets die, people with sensory issues are terrified. One of the most effective tools in addressing change locally has been to show people the impact of fireworks on peoples' lives. The communications plan that accompanies the introduction of the Bill must include issues like this. It's vital to "humanise the problem" so people know the impact of their behaviour.
- BBNAG members believe the communications around the Bill should teach people how much it costs for the SFRS, police, councils, ambulance service etc. to deal with the impact of fireworks incidents or fire raising. For example, the issue of the impact on older people or those with health issues. BBNAG has used information like this when engaging with local people and it was very effective.
- The Committee was asked whether the dates in the Bill could exclude local events? If the aim of the Bill is to change culture then banning local firework events on gala days and parades would be a step backwards as it is taking away controlled firework events which people can attend. Members of BBNAG thought the Bill should allow local flexibility for councils to allow the use fireworks in specific areas for certain events.

ANNEX D – Written Submissions

Name of organisation: Crown Office and Procurator Fiscal Service

Dear Stephen

I attach the data herewith. The count is by charge and the figures relate to the last full five financial years, 2016 to 2021. The first table shows the charges received and their markings/disposal. There are two additional tabs one showing a breakdown by business unit and the other displaying a count by the charge description.

I trust that this is sufficient for you purposes but please let me know.

Kenny Donnelly
Crown Office and Procurator Fiscal Service
31 March 2022

CJ/S6/22/14/6

Fireworks and pyrotechnics offences Charges received during financial years 2016-2021 Count is by charge and period received

Action taken re Subject	Action taken re Charge	Outcome	2016-17	2017-18	2018-19	2019-20	2020-21
Solemn	Court	No conviction	2	-	1	1	-
	Not separately actioned	Not separately actioned	6	-	-	-	-
Solemn Total			8	-	1	1	-
Summary	Court	Conviction	1	8	2	5	-
		No conviction	-	5	2	3	1
		Ongoing	-	-	1	-	2
		No further action	-	2	-	-	1
	Not separately actioned	Not separately actioned	-	1	1	1	3
Summary Total			1	16	6	9	7
Direct measure	Fiscal fine	Successful	2	-	4	2	4
		No further action	-	-	-	-	1
		Fiscal fine Total	2	-	4	2	5
	Diversion	Successful	-	2	7	7	6
		Ongoing	-	-	-	-	2
		No further action	-	-	-	1	2
		Diversion Total	-	2	7	8	10
	Warning	Warning	2	5	7	1	4
	Reporter	Reporter	1	4	5	2	1
	Not separately actioned	Not separately actioned	-	2	-	-	1
Direct measure Total			5	13	23	13	21
No action Total			2	6	2	1	1
Grand Total			16	35	32	24	29

Not Separately Actioned

The total number of charges reported will also include charges where action was taken in relation to other charges reported in the case, for example, because the prosecutor took the view that an alternative charge was more appropriate or because details of the charge were included within the body of another charge for evidential reasons.

Charges received during period 2016-21 Grouped by period reported and Sheriffdom Business unit Count is by charge

Sheriffdom Business Units	FY Reported	Explosives Act 1875 S80 - Throw, cast or fire a firework in a road or public place	Explosives Act 1875 S80 - Throw, cast or fire a firework into a road or public place	Fireworks (Scotland) Regulations 2004 R3(1) - Use adult firework during night hours	Fireworks Act 2003 S11A(5)(b) - Conceal prohibited firework from constable carrying out personal search	Fireworks Regulations 2003 R3(1) - Possess fireworks - Under 18	Fireworks Regulations 2004 R4(1) - Possess adult fireworks - Under 18	The Pyrotechnic Articles (Safety) Regulations 2015 R25,62(3)(b) - Make available on the market in UK a non CE marked pyrotechnic article	The Pyrotechnic Articles (Safety) Regulations 2015 R31(c)&62(3)(g) - Selling fireworks to someone under 18	Grand Total
Glasgow and Strathkelvin	2016-17	7	-	1	-	-	-	-	-	8
	2017-18	5	1	1	-	-	3	2	5	17
	2018-19	6	-	-	-	-	6	-	-	12
	2019-20	9	-	-	-	-	4	-	-	13
	2020-21	5	-	1	-	-	4	-	-	10
Glasgow and Strathkelvin Total		32	1	3	-	-	17	2	5	60
Grampian, Highland and Islands	2016-17	1	-	1	-	-	-	-	-	2
	2017-18	1	-	-	-	-	-	-	-	1
	2018-19	1	-	2	-	-	2	-	-	5

CJ/S6/22/14/6

	2019-20	-	-	3	-	2	-	-	-	5
	2020-21	1	-	-	-	-	-	-	-	1
Grampian, Highland and Islands Total		4	-	6	-	2	2	-	-	14
Lothian and Borders	2016-17	1	1	1	-	-	-	-	-	3
	2017-18	1	-	-	-	-	3	-	1	5
	2018-19	1	-	-	1	-	3	-	-	5
	2019-20	-	-	-	-	-	4	-	-	4
	2020-21	1	1	-	-	1	2	-	-	5
Lothian and Borders Total		4	2	1	1	1	12	-	1	22
North Strathclyde	2016-17	1	-	-	-	-	-	-	-	1
	2017-18	5	1	-	-	-	-	-	-	6
	2018-19	1	-	-	1	-	3	-	-	5
	2019-20	1	-	-	-	-	1	-	-	2
	2020-21	-	-	-	-	-	2	-	-	2
North Strathclyde Total		8	1	-	1	-	6	-	-	16
South Strathclyde, Dumfries and Galloway	2016-17	2	-	-	-	-	-	-	-	2

CJ/S6/22/14/6

	2017-18	4	-	-	-	-	-	-	-	4
	2018-19	1	-	-	-	-	4	-	-	5
	2020-21	6	-	1	-	-	-	-	-	7
South Strathclyde, Dumfries and Galloway Total		13	-	1	-	-	4	-	-	18
Tayside, Central and Fife	2017-18	-	1	-	-	-	1	-	-	2
	2020-21	2	-	1	-	-	1	-	-	4
Tayside, Central and Fife Total		2	1	1	-	-	2	-	-	6
Grand Total		63	5	12	2	3	43	2	6	136

Charges received 2016-21 Grouped by reported year and charge description Count is by charge

Charge description	2016-17	2017-18	2018-19	2019-20	2020-21
Explosives Act 1875 S80 - Throw, cast or fire a firework in a road or public place	12	16	10	10	15
Explosives Act 1875 S80 - Throw, cast or fire a firework into a road or public place	1	3	-	-	1
Fireworks (Scotland) Regulations 2004 R3(1) - Use adult firework during night hours	3	1	2	3	3
Fireworks Act 2003 S11A(5)(b) - Conceal prohibited firework from constable carrying out personal search	-	-	2	-	-
Fireworks Regulations 2003 R3(1) - Possess fireworks -Under 18	-	-	-	2	1
Fireworks Regulations 2004 R4(1) - Possess adult fireworks -Under 18	-	7	18	9	9
The Pyrotechnic Articles (Safety) Regulations 2015 R25,62(3)(b) - Make available on the market in UK a non CE marked pyrotechnic article	-	2	-	-	-
The Pyrotechnic Articles (Safety) Regulations 2015 R31(c)&62(3)(g) - Selling fireworks to someone under 18	-	6	-	-	-
Total	16	35	32	24	29