

# TACKLING FIREWORKS MISUSE

## A PRACTITIONER'S GUIDE



Home Office

**BERR** | Department for Business  
Enterprise & Regulatory Reform



# Contents

<b>Introduction</b>	<b>3</b>
<b>What is anti-social behaviour involving fireworks?</b>	<b>3</b>
<b>The impact of fireworks misuse</b>	<b>3</b>
<b>Sanctions to tackle the problem</b>	<b>3</b>
<b>Categories of firework</b>	<b>3</b>
<b>Throwing or possession of fireworks</b>	<b>6</b>
<b>Timing of fireworks use</b>	<b>6</b>
<b>Penalty notices for disorder (PNDs)</b>	<b>7</b>
<b>The impact of Halloween</b>	<b>7</b>
<b>Sale and supply of fireworks</b>	<b>9</b>
<b>Working together</b>	<b>10</b>
<b>And finally</b>	<b>10</b>



## **INTRODUCTION**

Fireworks are enjoyed responsibly by thousands of people up and down the country every year. They can be used on all sorts of occasions, but they are primarily used to celebrate Guy Fawkes Night, Diwali, New Year's Eve and the Chinese New Year.

Unfortunately, a small minority of people use fireworks irresponsibly and cause serious nuisance within their local communities. An even smaller minority sometimes use fireworks as weapons to harass and injure other individuals.

## **WHAT IS ANTI-SOCIAL BEHAVIOUR INVOLVING FIREWORKS?**

Anti-social behaviour involving fireworks ranges from fireworks being set off late at night with no regard for the noise nuisance this causes, to deliberate physical harm or threat of harm caused to people, animals and property. This sort of behaviour can cause communities to live in fear, and any action where fireworks are used to harass, intimidate or cause damage to others is criminal and anti-social.

## **THE IMPACT OF FIREWORKS MISUSE**

Managing fireworks issues in the community is about striking a balance between responsible enjoyment by the majority and irresponsible use by a minority. The misuse of fireworks can have a range of impacts on the community, and in the wrong hands fireworks can be damaging and dangerous.

At one end of the scale, fireworks let off late at night may prevent sleep and cause distress, scaring people and pets. At the other end, fireworks are deliberately used to damage property, or in extreme cases to injure and harm others intentionally.

Every year hundreds of adults and children require hospital treatment as a result of firework injuries sustained through accidents or intentional attacks.

## **SANCTIONS TO TACKLE THE PROBLEM**

There is a robust package of legislation in place to protect communities from the misuse of fireworks. This legislation enables the police, police community support officers (PCSOs), trading standards officers and customs officers working together to tackle the problem.

## **CATEGORIES OF FIREWORK**

All fireworks sold in the UK are categorised according to the size of their functional component, and must comply with BS 7114 and be marked accordingly with a label indicating their category. The four categories of fireworks are as follows:



### Category 1 – indoor fireworks

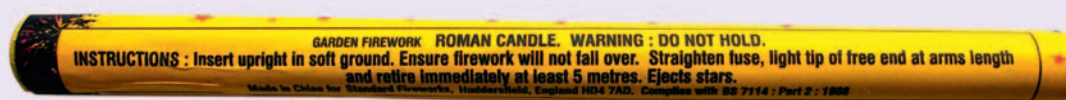
- Party poppers.
- Typically marked: FIREWORK SUITABLE FOR INDOOR USE.
- Primary packages and selection boxes should have the same marking.

### Category 2 – garden fireworks

- Typically stored in a PVC bag with a backing card and header.
- Must be viewed at a minimum of 5 metres.
- Marked: GARDEN FIREWORK. This marking will **only appear** on boxes containing category 2 fireworks or selections containing category 1 and 2 fireworks.



### Typical label



### Typical label



### Category 3 – display fireworks

- Must be viewed at a minimum of 25 metres (not suitable for use in gardens).
- Owing to the recent change from the UK default classification to the UN default, rockets of 20g Net Explosive Content (NEC) or those with a flash-powder bursting charge are classified as 1.3G.<sup>1</sup>
- Marked: DISPLAY FIREWORK.



### Category 4 – professional display fireworks

- For specialist use only.
- It is an offence for the public to be in possession.
- Must not be sold to anyone who has not received proper training.

<sup>1</sup> Indicator for hazard classification

## THROWING OR POSSESSION OF FIREWORKS

Police officers have the power to charge individuals with the following offences, which carry a maximum penalty of a £5,000 fine, six months in prison, or both:

- **Throwing fireworks or setting off fireworks in public places:** section 80 of the *Explosives Act 1875* prohibits the throwing or setting off of fireworks on any highway, street, thoroughfare or public place. A public place is anywhere to which the public are entitled or permitted access. For example, someone's own yard or garden is not included, but the local park, streets, car parks and bus station are all public places. Some school yards may also be public places at certain times of the day.
- **Possession of 'adult fireworks' by anyone under the age of 18 in a public place:** 'adult fireworks' are defined as any firework except for caps, cracker snaps, novelty matches, party poppers, serpents and throwdowns. This offence was first introduced in 2003 and made permanent by regulation 4 of the *Fireworks Regulations 2004*. Remember, even some sparklers are adult fireworks.
- **Possession of category 4 fireworks (public display fireworks) by anyone other than a firework professional:** this offence was first introduced in emergency legislation in 2003 and made permanent by regulation 5 of the *Fireworks Regulations 2004*. Category 4 fireworks are clearly labelled as such, and further information about them can be found at [www.berr.gov.uk/fireworks/](http://www.berr.gov.uk/fireworks/)

**The police also have the power to stop and search for fireworks** if they suspect that an individual is in possession of prohibited fireworks or that a vehicle contains prohibited fireworks. This power was introduced by section 115 of the *Serious Organised Crime and Police Act 2005* and came into effect from 1 July 2005.

Guidance for the police on their statutory powers to stop and search can be found in the *Police and Criminal Evidence Act 1984* Code A at [www.police.homeoffice.gov.uk/operational-policing/powers-pa-ce-codes/pa-ce-code-intro/?version=14](http://www.police.homeoffice.gov.uk/operational-policing/powers-pa-ce-codes/pa-ce-code-intro/?version=14)

## TIMING OF FIREWORKS USE

Even where permitted fireworks are being used by adults on their own property, it is important to respect the community's right to peaceful enjoyment of their lives. That is why legislation places requirements on when fireworks can be used – should individuals break the law, the police have powers to take action.

- **Curfew on fireworks use:** regulation 7 of the *Fireworks Regulations 2004* makes it **an offence for any person to use 'adult fireworks' between the hours of 11pm and 7am**, except on 'permitted' fireworks nights. These exceptions, when the curfew start time is later, are as follows:
  - 5 November – 12 midnight;
  - Diwali – 1am;
  - New Year's Eve – 1am; and
  - Chinese New Year – 1am.

The maximum penalty for this offence is a fine of £5,000, six months' imprisonment, or both.

- **Breach of the peace:** misuse of fireworks may amount to a breach of the peace as long someone has been harmed or fears that he or his property might be harmed, by the bad behaviour. A breach of the peace is not a criminal offence; however a person breaching the peace, or a person about to, breach the peace may be arrested.
- **Public Order Act 1986:** The Public Order Act creates a range of offences that may be committed by a person misusing fireworks in a way that frightens, intimidates or upsets another person. The precise offence will depend on the nature of the behaviour with the most serious Public Order Act offences carrying imprisonment.
- **Other anti-social behaviour tools and powers:** these can be put to use where fireworks misuse is part of a wider anti-social behaviour problem. They could include acceptable behaviour contracts (ABCs), anti-social behaviour injunctions (ASBIs), dispersal notices and anti-social behaviour orders (ASBOs).

**PENALTY NOTICES FOR DISORDER (PNDs)**

**PNDs are a quick and effective way of tackling fireworks misuse**, allowing agencies to punish offenders immediately with £80 fines. They are part of the wider drive to crack down on anti-social behaviour involving fireworks, and offer the police a quick method of dealing with fireworks offences.

PNDs can only be issued by certain individuals. These include:

- uniformed police officers;
- PCSOs who have been designated with this power by the chief of police; and
- persons who work in a community safety role, including neighbourhood wardens, park rangers, etc. who have been ‘accredited’ with this power by the chief of police.

Penalty notices for disorder can be issued to those aged 16 and over. However, 7 police forces – West Midlands Police, British Transport Police (Birmingham Division), Essex Police, Lancashire Police, Nottinghamshire Police, Merseyside Police and Metropolitan Police (Kingston Division) – recently piloted the issuing of PNDs to 10–15-year-olds and have used these PNDs to good effect.

The table below lists the firework offences punishable by an £80 PND.

Offence	Legislation
Throwing fireworks in a thoroughfare or public place	s80 Explosives Act 1875
Breach of the fireworks curfew (11pm–7am)	Fireworks Regulations 2004, Fireworks Act 2003 s11
Possession of adult fireworks in a public place by an under-18	Fireworks Regulations 2004, Fireworks Act 2003 s11
Possession of category 4 fireworks	Fireworks Regulations 2004, Fireworks Act 2003 s11

**THE IMPACT OF HALLOWEEN**

In the run-up to 5 November, Halloween is increasingly becoming a celebration which makes use of the wide availability of fireworks, but a small minority believe that these celebrations give them a licence to behave badly and engage in anti-social behaviour. This can create anxiety within neighbourhoods, particularly for elderly

or vulnerable members of the community. It is therefore important that efforts are made to ensure that those who may be vulnerable or who do not wish to engage in these activities do not feel threatened in their homes and communities. Kent Police and its partners have run an annual campaign during this period, as set out overleaf.



## KENT POLICE: SAFER AUTUMN 2007

As part of its *Safer Autumn* campaign, Kent Police and its partner agencies gave out safety advice in advance of Bonfire Night 2007, along with information to remind people about why it is important to respect the fireworks laws.

Firework misuse is both dangerous and irresponsible, and Kent Police worked with local communities and officers on patrol on Bonfire Night to ensure that any anti-social behaviour was dealt with.

Together with Kent Fire and Rescue Service, Trading Standards, the Royal Society for the Prevention of Cruelty to Animals and Kent County Council wardens, Kent Police adopted a high-profile campaign to warn of the dangers of firework misuse and the penalties. The campaign targeted anti-social behaviour and the sale of fireworks to underage children.

A workshop was held on Monday 22 October 2007 with attendees from neighbourhood policing teams, neighbourhood watch groups and other agencies including Kent Fire and Rescue Service and social landlords (previously known as housing association landlords). Fifty-two participants were trained in firework legislation; when added to those trained in 2006, this created a total of 100 tactical advisors who could attend and deal robustly with misuse of fireworks incidents.

Chief Inspector Mark Harrison said: Last year [2006] there were no arrests and very few incidents relating to the misuse of fireworks, because the majority of people respected the fireworks laws and heeded the safety advice we gave. We will be out in force again this year, with police community support officers joining neighbourhood teams to give advice and ensure that fireworks are not sold or used inappropriately.

‘The majority of fireworks are sold through retail outlets. We work very closely with them and offer support with any issues or concerns they have. We will enforce the law relating to firework sales and use. Fireworks can cause horrific injuries and significant damage to property, and we will take action where necessary on anyone breaking the law.’

Retailers displayed posters reinforcing the message that they would not sell eggs, flour or fireworks to young people.

Kent Police made three arrests in two isolated incidents during the Bonfire Night period. A number of minor incidents, mainly around criminal damage and nuisance behaviour, were also investigated. Most festivities around Hallowe’en and Bonfire Night events went ahead successfully and safely.

‘The vast majority of people followed the safety messages we promoted around fireworks, and there was a good response to trick or treat celebrations too,’ said Chief Inspector Harrison. ‘We said we would enforce our new powers but sadly a very small minority didn’t pay attention and were dealt with.’

‘Three people were arrested in relation to specific isolated incidents. Others who behaved in an anti-social way were spoken to without further cause for concern. One teenager in Whitstable was arrested for throwing a firework and was later given an £80 PND. Two people were arrested in the Swale area for throwing sparklers from a bridge. One was given a reprimand and the other was issued with an £80 PND. A further PND was issued to a householder in Ramsgate for breaching the fireworks curfew.’

Chief Inspector Harrison added: ‘*Safer Autumn* has worked very well. As we did last year, we combined education with high-profile policing to ensure that anti-social behaviour did not spoil people’s celebrations. We would like to thank people in the county for working with us to help make autumn safer for everyone.’



## SALE AND SUPPLY OF FIREWORKS

The local authority, trading standards officers, customs officers and the local fire service also have a role to play in ensuring that fireworks are stored correctly and supplied to appropriate persons. Offences carry a maximum penalty of a £5,000 fine, six months' imprisonment or both.

- **Prohibition of supply of fireworks:** under regulation 6 of the *Fireworks (Safety) Regulations 1997* (as amended) it is illegal for retailers to sell caps, cracker snaps, novelty matches, party poppers, serpents or throwdowns to anyone who is under 16, and to sell all other adult fireworks to anyone who is under 18.
- **Prohibition of supply of certain fireworks to the general public:** under regulation 4 of the *Fireworks (Safety) Regulations 1997* (as amended), air bombs, aerial shells, aerial maroons, shells-in-mortar and maroons-in-mortar, all bangers (including 'batteries' containing bangers, such as Chinese Crackers), mini-rockets, fireworks with erratic flight (e.g. ground spinners, jumping jacks, squibs) and all category 4 fireworks may not be supplied to the public.
- **Prohibition of supply of excessively loud category 3 fireworks:** under regulation 8 of the *Fireworks Regulations 2004* it is illegal to supply any category 3 firework that generates a sound greater than 120 decibels.
- **British Standards:** retailers may only sell fireworks that are manufactured to conform to British Standards. All fireworks legally sold must have the British Standard Code 'BS 7114' printed on the box.
- **Signage:** suppliers of fireworks are required under regulation 10 of the *Fireworks Regulations 2004* to display a notice (not less than 420mm by 297mm) informing customers of the law in relation to underage sale and possession of fireworks.
- **Licensing of fireworks suppliers:** from 1 January 2005, under regulation 9 of the *Fireworks Regulations 2004* any person selling adult fireworks to members of the public for an extended period outside the usual fireworks season dates must have a licence granted by the local licensing authority – this is likely to be either the local authority or the local fire service. The times when a licence is not required are:
  - (a) on the first day of the Chinese New Year and the three days immediately preceding it;
  - (b) on the day of Diwali and the three days immediately preceding it;
  - (c) during the period beginning on 15 October and ending on 10 November; and
  - (d) during the period beginning on 26 December and ending on 31 December.
- **Aquisition of fireworks:** the *Manufacture and Storage of Explosives Regulations 2005* (MSER) also put requirements on individuals acquiring fireworks. In general, regulation 25 of the MSER requires any person who acquires fireworks (over 50kg) to be registered or licensed. This is enforceable by the local fire service.
- **Importation of fireworks:** from 1 January 2005, under regulation 11 of the *Fireworks Regulations 2004* anyone importing fireworks must now give details (including their name and address, the name of the person storing the fireworks, and the address of the premises where the fireworks are to be stored) to HM Revenue and Customs (HMRC).

HMRC ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)), local authority trading standards officers ([www.lacors.gov.uk](http://www.lacors.gov.uk) or [www.tsi.org.uk](http://www.tsi.org.uk)) and the local fire and rescue services ([www.fireservice.co.uk](http://www.fireservice.co.uk)) have a responsibility to ensure that strategies are in place to manage the licensing and importation of fireworks.

## WORKING TOGETHER

If there is a fireworks problem within a community, local people and local organisations need to work together to tackle it. The most effective fireworks safety campaigns around the country are the result of partnerships between local organisations. It is important that local businesses, community groups and others such as schools and youth groups are involved.

Communities need to be informed of the responsible use of fireworks and made aware of the penalties for committing a fireworks offence. Leaflets, posters and briefings at community meetings are a good way of informing people of what constitutes a fireworks offence and what the penalties are for breaking the law. These could be merged with safety campaigns. The Department for Business, Enterprise and Regulatory Reform has useful resources available on its website at [www.berr.gov.uk/fireworks](http://www.berr.gov.uk/fireworks)

Publicity needs to be timely so that it is easier for local people to make a connection between a specific date (such as 5 November) and anti-social behaviour involving fireworks. We find that it is best to distribute leaflets and other printed materials such as posters or newsletters one to two weeks before occasions when fireworks are likely to be used, such as Bonfire Night, Diwali, New Year's Eve and Chinese New Year.

## AND FINALLY

Data suggest that domestic burglaries and thefts of vehicles increase by around 5 per cent during November as people take less care of home and car security. Using firework noise as a cover, nearly a quarter of all domestic burglaries during November are committed by opportunists taking advantage of a door or window left unlocked while people are out enjoying fireworks displays or welcoming friends for fireworks in gardens. By taking some simple precautions that cost nothing, homes and possessions can be made much safer.

It is therefore important to include advice on making sure that all windows and doors are locked, and maintaining an 'at home' look by closing curtains, leaving a light on and perhaps leaving a radio or television on, as part of your fireworks communication strategy.

General crime prevention advice and downloadable leaflets including *A Guide to Home Security* can be found at [www.crimereduction.gov.uk/burglaryminisite01.htm](http://www.crimereduction.gov.uk/burglaryminisite01.htm)

To prevent thefts of vehicles, it is important to make sure that all the doors and windows are locked and that keys are kept in a safe place. Park in a garage if you have one, otherwise park in a well lit and open place. Car crime prevention advice, including downloadable leaflets, can be found at [www.crimereduction.gov.uk/toolkits/vc00.htm](http://www.crimereduction.gov.uk/toolkits/vc00.htm)

**Don't forget:**


- to use ASBOs and ABCs to tackle fireworks misuse, especially when it is only one aspect of a perpetrator's anti-social behaviour;
- to work closely with the local fire service;
- to consider providing an all-night noise service during peak periods;
- that the police have the power to stop and search anyone they suspect of carrying illegal fireworks;
- to work with trading standards to tackle illegal sales; and
- to use PNDs as a fast, effective alternative to prosecution.

Not many people misuse fireworks, but those who do need to be stopped. Fireworks are dangerous and need to be handled with care and responsibility. It is vital that a similar message is promoted in communities to prevent and stop their misuse.

With thanks to Chief Inspector Mark Harrison of Kent Police and Chris Case, Threat Response Group Manager of Merseyside Fire and Rescue Service for their guidance and advice.

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