

ITEM No ...9.....

REPORT TO: CITY GOVERNANCE COMMITTEE – 25 SEPTEMBER 2023

REPORT ON: FIREWORK CONTROL ZONES

REPORT BY: EXECUTIVE DIRECTOR OF NEIGHBOURHOOD SERVICES

REPORT NO: 248-2023

1.0 PURPOSE OF REPORT

1.1 The purpose of this report to advise Committee of discretionary powers available to local authorities to create Firework Control Zones (FCZ) introduced in June 2023 under the Firework and Pyrotechnic Articles (Scotland) Act 2022.

2.0 RECOMMENDATIONS

2.1 It is recommended that Committee:

- notes the report;
- agrees to undertake wider communication and awareness raising exercise in Dundee's eight wards.
- agrees to work with communities to identify potential areas and to create local mechanism for communities to request Firework Control Zones (FCZ);
- agrees that where a community requests the creation of a zone, a cross-service working group will be established to coordinate the process and there will be early consultation with Police Scotland and SFRS colleagues to assist in preparing a proposal for wider consultation.

3.0 FINANCIAL IMPLICATIONS

3.1 Should a decision be taken to draw up proposals for an FCZ, there will be costs involved in undertaking the required consultation exercise etc. Scottish Government funding is available in this financial year for costs associated with the consultation process, with a further £15k available if the local authority decides to designate an FCZ. There may also be cost implication for Police Scotland, to whom enforcement of FCZs fall.

4.0 BACKGROUND

4.1 Part 4 of the Firework and Pyrotechnic articles (Scotland) Act 2022 introduced a discretionary power for Local Authorities to designate Firework Control Zones. This follows a recommendation of the Firework Review Group that Local Authorities should be able to establish, with input from communities, whether there is a need for the use of fireworks to be restricted in specific areas. This legislation came into force on 22 June 2023, with the accompanying guidance for Local Authorities being published on the same date.

4.2 An FCZ is an area within which it is a criminal offence for a member of the public to ignite a firework, including in private gardens. Police are responsible for enforcement of restrictions imposed by an FCZ and, where there are reasonable grounds, have powers of search without warrant of persons and vehicles and to seize and retain any item found that may be relevant to the commission of the offence. The maximum penalties for offences are £5000 or 6 months imprisonment.

4.3 Public firework displays are permitted within an FCZ, subject to certain requirements, including local licensing requirements.

- 4.4 Local Authorities should involve police and other partners at the formative stages developing a proposal for an area, including the geographical extent and dates to which an FCZ would apply
- 4.5 The Act requires that a local authority must prepare and publish a proposal for an FCZ and carry out a consultation on the proposal, which must be proportionate and evidence based. The consultation must include those who live and work in the proposed zone, other members of the local community in or near the proposed zone and any others who have a connection with, be interested in, or are affected by the proposed zone. Local Elected Members would be key consultees in any proposal.
- 4.6 The guidance refers to a period of 8 to 12 weeks as good practice for a consultation exercise. There is then a requirement to review consultation responses and thereafter to publish the decision on the proposal. When the decision is to proceed with the creation of an FCZ, publication must be at least 60 days before the FCZ is to have effect.
- 4.7 The guidance recognises that the power to introduce FCZs is one of a range of enforcement and preventative tools available to seek to resolve issues involving fireworks and they are not the first or only step to be taken to tackle these issues.
- 4.8 For example, Operation Moonbeam is a well-established multi-agency response to the challenges of the period around bonfire night. In Dundee, this operation is well established and links in with a range of preventative work carried out by partners including various Council services, Scottish Fire and Rescue Service and Police Scotland.
- 4.9 Given the timescale required to follow the process to introduce a FCZ, from the time of the introduction of the legislation and the publication of the guidance, to the likely dates that a FCZ would be in place , i.e. when fireworks are permitted to be sold in October and November, it was not feasible to complete the process in time. The earliest date by which an FCZ could have been introduced would be mid to late December 2023, if the process started in early July.

5.0 POLICY IMPLICATIONS

- 5.1 This report has been subject to the pre-IIA screening tool and does not make any recommendations for change to strategy, policy, procedures, services or funding and so has not been subject to an integrated impact assessment. An appropriate senior manager has reviewed and agreed with this assessment.

6.0 CONSULTATIONS

- 6.1 The Council Leadership Team have been consulted on the preparation of this report and agree with its contents.

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25 September 2023