



## Briefing paper regarding bonfire night 2017

### Introduction

Following Bonfire Night on 5 November 2017, the media reported incidents of anti-social behaviour, including assaults, towards emergency service workers, in particular officers from Police Scotland and operational firefighters.

Annabelle Ewing, MSP for Community Safety and Legal Affairs, via the Deputy Director, Safer Communities Division, Scottish Government, highlighted to Derek Penman QPM, HM Chief Inspector of Constabulary in Scotland (HMCICS) and Martyn Emberson QFSM, HM Chief Inspector of Fire Service in Scotland (HMFSI), there was ministerial interest in the implications for emergency services on Bonfire Night. Concerns had been raised regarding the level of violence. There was also debate about whether there had been an increase in incidents and whether there were gaps in legislation.

Consequently, HMICS liaised with Police Scotland and HMFSI with the Scottish Fire and Rescue Service (SFRS) in order to collate and interpret data.

Police Scotland and the SFRS were required to provide data regarding their:-

- Operational Planning arrangements for the period leading up to and involving Bonfire Night;
- Incident volume and offence types for the period leading up to and involving Bonfire Night and an understanding of whether there was an upward trend in incidents;
- Perceived gaps in legislation.

There was also an acknowledgement that it would be helpful to appreciate the costs associated with any enhanced arrangements for Bonfire Night.

This briefing note summarises the information provided by both organisations.

### Information Returns

#### Operational Planning arrangements for the period leading up to and involving Bonfire Night

Both organisations outlined the additional arrangements they made to meet the operational demands of pre-planned events and increase in call demand. In summary, both organisations outlined robust and well-rehearsed preparation and planning processes in relation to Bonfire Night and the days surrounding Bonfire Night. This includes Police Scotland carrying out a risk assessment of events to determine whether a policing response was required and if so, working closely with partners and stakeholders. For larger events, this may have involved the establishment of a 'Safety Advisory Group', although this is a voluntary process as opposed to legislative and therefore is subject of some variance in approach across Scotland.

Police Scotland provided detail of some bespoke planning. This included Edinburgh Division holding pre-planning meetings and engagement with key stakeholders regarding 'Operation

Pumpkin', which was the overarching name given to the policing operation for Bonfire activity within Edinburgh. Similar arrangements were made in the west and north areas of Scotland.

In terms of resources, additional police officers were deployed to larger community events across Scotland (in total there were 109 events that were notified to Police Scotland and recorded on the Police Scotland events calendar – and following a risk assessment process, 48 required a dedicated police presence and 61 did not).

Regarding the SFRS, the Bonfire campaign forms part of a wider annual programme of youth engagement and public safety messaging and is resourced accordingly. There is a specific monitoring period from 13 October to 6 November, which is supported through an Autumn Season Thematic Action Plan. This provides guidance to support Local Senior Officers to minimise the impact of fire during this period – this includes Bonfires/Fireworks lesson plans and presentations, leaflets and posters and a communications and social media strategy. There is significant resource implication associated with delivering the prevention message; however, this is factored into the annual work programme. Consequently, whilst there is an increased focus on anti-social behaviour around this time of year, in general terms this will be supplementary to primary roles.

## Findings

- In summary, both organisations specified robust additional arrangements to meet demand. There is evidence of effective partnership working between Police Scotland and the Scottish Fire and Rescue Service.

### Incident volume and offence types for the period leading up to and involving Bonfire Night and an understanding of whether there was an upward trend in incidents

Police Scotland have confirmed that it cannot provide data from 2013-2017 for comparative purposes, as much of this time frame transcends the move from four separate legacy force systems and recording processes.

The following table (1) provides data regarding Police Scotland incidents for the last three years:

Table 1

| Date                             | Fireworks | Bonfires |
|----------------------------------|-----------|----------|
| 01.11.15 – 07.11.15 <sup>1</sup> | 992       | 526      |
| 01.11.16 – 07.11.16 <sup>2</sup> | 934       | 715      |
| 01.11.17 – 07.11.17 <sup>3</sup> | 1253      | 749      |

Acknowledging the limits with the data provided, (as seen in the footnotes), the figures suggest an increase of fireworks related calls between 2016 and 2017, from 934 to 1253, an increase of 25.4%. The incidents tagged with 'Fires'<sup>4</sup> increased from 715 in 2016 to 749 in 2017, a rise of 4.5%.

<sup>1</sup> Police Scotland advise that it should be noted that these figures relate to incidents which have been tagged as 'Fireworks related' on the STORM Unity Command and Control system. In 2015, STORM Unity only covered east and west command areas. North command (Inverness, Dundee and Aberdeen) were working on three separate systems and are not included in the numbers provided. The figures for Inverness were provided separately by Police Scotland and have been added to the totals in the table.

<sup>2</sup> The figures for 2016 include Dundee, which migrated to STORM Unity in 2016.

<sup>3</sup> The figures for 2017 include Aberdeen, which migrated to STORM Unity in 2017.

<sup>4</sup> Police Scotland state that due to the way in which incidents are recorded, separate bonfires cannot be distinguished from other fires, for example house fires. Therefore the figures shown cover all reports of fires during the period.

In terms of assaults on police officers, Police Scotland was able to provide data from legacy crime management systems by using the keywords ‘*Minor assault of an emergency worker*’ for the last three years against all divisions – as shown in the table (2) below. It should be noted that this information does not include other crimes that may be linked to Bonfire Night, including Breach of the Peace, Reckless Conduct, Serious Assault, Vandalism etc. Police Scotland was asked to provide data on crime reports associated with Bonfire Night activity between 28 October and 6 November but reported that this would be challenging due to the fact it was difficult to attribute offences directly to the nature of the event. Detailed analysis would be required to provide meaningful context on key areas such as violent crime, disorder and vandalism.

Table 2

| Division | 2015                            |                                 | 2016                            |                                 | 2017                            |                                 |
|----------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
|          | Total number of police assaults | Number related to bonfire night | Total number of police assaults | Number related to bonfire night | Total number of police assaults | Number related to bonfire night |
| A        | 1                               | 0                               | 2                               | 0                               | 1                               | 0                               |
| D        | 0                               | 0                               | 0                               | 0                               | 0                               | 0                               |
| N        | 0                               | 0                               | 0                               | 0                               | 0                               | 0                               |
| C        | 1                               | 1                               | 0                               | 0                               | 0                               | 0                               |
| E*       | 0                               | 0                               | 4                               | 0                               | 4                               | 2                               |
| J        | 2                               | 0                               | 0                               | 0                               | 0                               | 0                               |
| P        | 0                               | 0                               | 0                               | 0                               | 0                               | 0                               |
| G        | 4                               | 1                               | 13                              | 0                               | 3                               | 3                               |
| U        | 1                               | 0                               | 1                               | 0                               | 0                               | 0                               |
| Q        | 6                               | 1                               | 7                               | 2                               | 3                               | 1                               |
| L        | 3                               | 0                               | 0                               | 0                               | 0                               | 0                               |
| K        | 0                               | 0                               | 1                               | 0                               | 1                               | 0                               |
| V        | 0                               | 0                               | 0                               | 0                               | 0                               | 0                               |
| Force    | 18                              | 3                               | 28                              | 2                               | 12                              | 6                               |

\*A serious assault on a police officer, relating to Bonfire Night was also recorded in E Division in 2017 but was omitted from these stats due to the search criteria

The highlights from this data would tend to suggest:-

- The number of assaults on police officers in Scotland, which are Bonfire Night related, have risen from 2 assaults in 2016 to 6 assaults in 2017.
- The incident in Edinburgh, which resulted in media attention, resulted in 2 assaults, (plus one serious assault as detailed in the note\* above) whereas there had been no police assaults in E Division in relation to Bonfire Night for the previous two years. This might therefore suggest the start of an upward trend or an isolated spike and this will only be ascertained through further analysis in the future.
- G Division – Greater Glasgow saw an increase of 3 police assaults compared to none the previous year.

Conversely, the incident data provided by the Scottish Fire and Rescue Service shows that in relation to what they have recorded as ‘Bonfire Related Activity’, they have recorded a decrease in calls, from 581 calls in 2016 to 521 in 2017. What this might suggest is the police

are responding to more calls regarding the anti-social aspects of fireworks and minor bonfires as opposed to uncontrollable fires or circumstances in which it is necessary for the Fire Service to attend.

The comparative data provided by the Scottish Fire and Rescue Service is shown in Table (3) below:

Table 3

| Date        | Bonfire Activity | Acts of Violence |
|-------------|------------------|------------------|
| 2013 – 2014 | 644              | 16               |
| 2014 – 2015 | 691              | 8                |
| 2015 – 2016 | 510              | 7                |
| 2016 – 2017 | 581              | 9                |
| 2017 – 2018 | 521              | 11               |

This highlights a decline in bonfire activity calls since 2014 (reduction of 24.6% between 2014 and 2017) and a fairly consistent picture in terms of acts of violence, albeit a rise from 9 in 2016-2017 to 11 in 2017-2018.

The SFRS were also able to present the detail for the timings of calls and the following table highlights the significant rise in demand between the day preceding Bonfire Night and the day itself.

Table 4

| Date                                   | Total Bonfire Incidents |
|--|-------------------------|
| 04.11.17 - 05.11.17<br>(0700-0700 hrs) | 44                      |
| 05.11.17 - 06.11.17<br>(0700-0700 hrs) | 521                     |

## Findings

- Police Scotland data suggests an increase of 25.4% in Fireworks related calls 2016-2017. However, cognisance must be taken of the limits of the data provided, as described earlier in this briefing.
- Police Scotland report a 4.5% increase of Bonfire calls 2016-2017.
- In the same period, the Scottish Fire and Rescue Service report a rise in bonfire activity between 2015-2016 (from 510 to 581), but a decrease between 2016-2017 (from 581 to 521).
- Acts of violence remain consistent in the data provided by the Scottish Fire and Rescue Service
- Police Scotland data suggests a slight increase in police assaults directly related to Bonfire Night in E and G Divisions, potentially suggesting a slight upward trend in urban cities; or simply a one-off spike. Further analysis would be required to establish this.
- The Scottish Fire and Rescue Service suggest a significant spike in bonfire incidents on Bonfire Night itself (from 44 the previous day to 521).

### Perceived gaps in legislation

Both organisations were asked to comment on whether they perceive any gaps in the legislation. Police Scotland identified a number of potential gaps as follows:

- Stop and search powers – Current legislation provides that police officers may search a person for fireworks where they have ‘reasonable grounds’ and this is restricted to a person under 18 years of age in a public place; or, a person over 18, who is suspected of supplying fireworks to a person under the age of 18 years (Section 11A, Fireworks Act 2003). In the return provided by Police Scotland it suggested that the absence of a dedicated power of search for fireworks based on reasonable grounds, to suspect persons aged 18 years of over who may be in possession of fireworks for use in public contrary to legislation or common law, presents a potential gap.
- Further to this and where relevant and proportionate, officers would have used investigative powers of detention for questioning under Section 14, Criminal Procedure (Scotland) Act, 1995. This has now been replaced with Section 1, Criminal Justice (Scotland) Act 2016, which affords an officer a power of search, however one which Police Scotland noted in their return as having the potential to be perceived as disproportionate.
- Explosives Licensing – The sale of fireworks is licensed by Local Authorities through Trading Standards. As such, the Local Authority, through their Trading Standards Department is responsible for any licence to store fireworks where no other certificate is held with the police e.g. Registered Firearms Dealer (RFD). Where a RFD or other such authorisation is held with Police Scotland, it is the responsibility of the Firearms and Explosives Licensing Department for licensing of the storage of pyrotechnics.
- Offences – the current offences available to officers include:

Culpable and Reckless Conduct – This common law offence is relevant where a person has set off a pyrotechnic in circumstances where risk is involved. No expert evidence is required in this instance. In all crimes involving reckless conduct, the degree of recklessness required to constitute the crime is an ‘utter disregard of what the consequences of the act in question may be so far as the public are concerned’.

Criminal Law (Consolidation) (Scotland) Act 1995, Section 20 – Designated Sporting Events only, Section 20(3) – any person who has entered the relevant area of a designated sports ground and is in possession of a controlled article or substance at any time during the period of a designated sporting event shall be guilty of an offence. Section 20(4) – any person who, while in possession of a controlled article or substance, attempts to enter the relevant area of a designated sports ground at any time during the period of a designated sporting event at the ground shall be guilty of an offence.

In addition to these offences, the only piece of legislation available is the Explosives Substances Act 1883. In their response, Police Scotland included that this Act is pertinent only to acts of terrorism and inappropriate for pyrotechnic /firework offences.

Explosive Substances Act 1883, Section 4 (relevant only by prior authorisation from the Crown Office and Procurator Fiscal Service). Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under this control for a lawful object, be guilty of felony, and, on conviction, shall be liable to imprisonment for a term not exceeding fourteen years nor less than three years, or to imprisonment for a term not exceeding two years, and the explosive substance shall be forfeited. Of note, there is a power of seizure which exists under Section 74 of the Explosives Act 1875, which can be used where officers have found a relevant explosive ingredient of an explosive or substance but there is currently no power of search.

- Significantly, in May 2017, the Home Office made changes to the Policing and Crime Act 2017 for music events. This has partially filled the legislation gap in England and Wales by covering music events and surrounding areas and properties. This would indicate a shortfall in legislation to control the possession of fireworks out with sporting events in Scotland where officers have to rely on a power of seizure from the Explosives Act 1875 and where no power of search exists.

In terms of the Scottish Fire and Rescue Service, they commented that they would prefer communities to attend organised events and enjoy fireworks displays that are controlled by licenced professionals, but recognise that many people prefer to purchase their own fireworks and organise their own local bonfires. The service highlighted a worry that tightening up legislation around the sale of fireworks, or the prohibition of such a sale, may lead members of the community to source these products online or via unlicensed sources which may lead to products being used that do not comply with British or European Standards and could potentially increase the risk to users and emergency responders.

## Findings

- Police Scotland suggests there are potential gaps in powers and legislation. In particular, a lack of power to search (unless search is carried out under Section 1, Criminal Justice (Scotland) Act 2016, which may be viewed as disproportionate. A power of seizure is provided under Section 74 of the Explosives Act 1875, but this does not provide a power of search.
- Police Scotland report that they have no jurisdiction over the way in which an individual chooses to store pyrotechnics, unless a certificate is held e.g. Registered Firearms Dealer.
- Police Scotland commented that there are powers regarding possession of fireworks/pyrotechnics in designated sporting events or designated sports ground; but there is no legislation that covers music events.

## Costs

Police Scotland has provided data regarding the number of pre-planned events that police officers were deployed too. With regards to events where a policing resource has been requested, an assessment is carried out to determine whether any abatement with regard costs for the police service may be levied. This can vary and generally applies to large scale commercial events, which could be subject to cost recovery (cost recovery figures were not requested as part of this report).

In respect of additional costs for Police Scotland, Edinburgh Division incurred a £19,370 spend on overtime, which specifically related to 'Operation Pumpkin' an operation which ran for the period leading up to and including Bonfire Night (28 October 2017 – 5 November 2017). This was enabled utilising City of Edinburgh Council funding as well as 'Operation Apparel' (the overtime budget for Edinburgh Division) funding. Furthermore a variety of shift changes and re-rostering of rest days of some officers were made in advance of the event to ensure the operation was sufficiently resourced.

Overall, Police Scotland resourced pre-planned events for the period locally, with the relevant divisions utilising community based officers, special constables and departmental officers working as part of a 'Local Day of Action'.<sup>5</sup> Shift changes and in some cases the re-rostering of rest days was required to meet the demand and minimise additional cost.

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<sup>5</sup> A Local Day of Action in Police Scotland is a day where non-front line staff are deployed to support local initiatives or events.

Police Scotland was not asked to provide details regarding fuel costs or damage to police property.

In terms of The Scottish Fire and Rescue Service, increased levels of resources and associated costs can be considered over a number of areas:-

Senior Officers - During the anticipated period of high activity the service deploys a number of senior officers to work within command and control centres across the country to assist in the prioritisation of mobilisations and the allocation of appropriate resources. These officers are conditioned to a flexible duty pattern that requires them being “on-call” for a specific number of evenings and weekends each year. The officers utilised to carry out this function are therefore drawn from the cadre deemed to be “on-call” and as such they attract no additional payment.

Command and Control Room Staff - Given the increased call volume it is essential that the service has maximum number of command and control room staff available to handle these calls for assistance and dispatch resources as quickly as possible. This requires additional personnel to be brought into work on days that would otherwise be allocated as rota days. The majority of command and control room staff are conditioned to the five group duty system that is based on a system of annualised hours. This means that staff can be brought in using “out of pattern” days at no additional cost to the service.

Wholetime Firefighter Salaries - Whilst there is no doubt that many of the services wholetime fire stations will see a significant increase in activity levels over this period, there will be little cost to the service as staff are paid the same rate regardless of the number of calls they attend whilst on duty.

Retained Firefighter Salaries - One area where an increase in costs does occur is when staff are employed on the Retained Duty System (RDS). Within this system staff are paid an annual retaining fee, and an hourly rate for attending training nights and for responding to incidents. The service has provided an estimated cost relating to increased activity levels across the RDS areas and this is shown in the table (5) below.

Table 5

| RDS activity |                  |        |                           |       |                           |         |
|--------------|------------------|--------|---------------------------|-------|---------------------------|---------|
| SDA          | Average turnouts |        | Actual turnouts           |       |                           |         |
|              | Saturday         | Sunday | 4 <sup>th</sup> Nov. 2017 | Cost  | 5 <sup>th</sup> Nov. 2017 | Cost    |
| West         | 37               | 38     | 38                        | £100  | 102                       | £6400   |
| East         | 33               | 34     | 45                        | £1200 | 106                       | £7200   |
| North        | 28               | 27     | 42                        | £1400 | 39                        | £1200   |
| Total        | 98               | 99     | 125                       | £2700 | 247                       | £14,800 |

*NB: Numbers shown indicate a turnout and costs shown are based on a crew of five for one hour being circa £100. This does not include personnel who attended but did not form part of the crew. Turnout average is calculated from April 2017 to November 2017.*

Whole-time Overtime - Another cost directly associated with the annual bonfire celebrations relates to a temporary suspension of the SFRS “Appliance Withdrawal Strategy”. This strategy was put in place to reduce the burden on overtime budgets by allowing a defined number of emergency vehicles to be placed “Off the Run”, or deemed to be unavailable to respond, when staff shortages would result in overtime having to be paid to maintain their availability.

Given the significant increase in activity on the 5<sup>th</sup> November it was considered sensible to keep all appliances “On the Run” and as such overtime was sanctioned to ensure this was achieved.

The table (6) below aims to demonstrate the financial implications of this decision.

Table 6

| Overtime occurrence |         |                 |                |         |                 |
|---------------------|---------|-----------------|----------------|---------|-----------------|
| Average Saturday    | 4th Nov | Additional cost | Average Sunday | 5th Nov | Additional cost |
| 34                  | 29      | £0              | 20             | 64      | £11,500         |

*NB: Relates to Whole overtime shifts worked averaged at 12 hours to level out day and night shifts. A value of £21.05 has been used as an indicative cost to average out the variance between FF to WM roles. Casual overtime is not included.*

Fuel Costs and Vehicle Damage - On average the SFRS spends approximately £2M per year on fuel for its fleet of vehicles. Clearly an increase in activity results in increased appliance movement and this in turn impacts on fuel usage and associated cost. Calculating the exact costs associated with bonfire night activity are very difficult but it is fair to say that an increase in wear and tear and fuel costs occurs during this period.

Routine vehicle damage occurs on and off station and almost certainly increases in line with increased movement.

## Findings

- Both services experience an increase in demand and a need to flex and increase resource. In general terms, this is managed through re-deploying resources and changing tours of duty. Other measures include cost recovery and managing overtime budgets to keep costs to a minimum.

## Recap of Findings and Conclusion

- In summary, both organisations specified robust additional arrangements to meet the anticipated demand. There is evidence of effective partnership working between Police Scotland and the Scottish Fire and Rescue Service.
- Police Scotland data suggests an increase of 25.4% in Fireworks related calls 2016-2017 (319 additional calls, as shown in Table 1).
- Police Scotland report a 4.5% increase of Bonfire calls 2016-2017 (34 additional calls, as shown in Table 1).
- In the same period, the Scottish Fire and Rescue Service report a rise in bonfire activity between 2015-2016 (from 510 to 581), but a decrease between 2016-2017 (from 581 to 521).
- Acts of violence remain reasonably consistent in the data provided by the Scottish Fire and Rescue Service.
- Police Scotland data suggests a slight increase in police assaults directly related to Bonfire Night in Edinburgh and Greater Glasgow Divisions, potentially suggesting a slight upward trend in urban cities; or simply a one-off spike. Further analysis would be required to establish this.

- The Scottish Fire and Rescue Service suggest a significant spike in bonfire incidents on Bonfire Night itself (from 44 the previous day to 521 on Bonfire Night).
- Police Scotland suggests there are potential gaps in powers and legislation. In particular, a lack of power to search (unless search is carried out under Section 1, Criminal Justice (Scotland) Act 2016, which may be viewed as disproportionate. A power of seizure is provided under Section 74 of the Explosives Act 1875, but this does not provide a power of search.
- Police Scotland comment that they have no jurisdiction over the way in which an individual chooses to store pyrotechnics, unless a certificate is held e.g. Registered Firearms Dealer.
- Police Scotland highlight that there are powers regarding possession of fireworks/pyrotechnics in designated sporting events or designated sports ground; but there is no legislation that covers music events.
- Both services experience an increase in demand and a need to flex and increase resource. In general terms, this is managed through re-deploying resources and changing tours of duty. Other measures include cost recovery and managing overtime budgets to keep costs to a minimum.

In terms of the media coverage of disorder, the data collected does reflect a slight increase in assaults on police officers directly related to Bonfire Night and of Acts of Violence towards the Fire Service. It would be beneficial if both organisations collected data for comparison 2018-2019 to offer more evidence for whether this is the beginning of an upward trend.

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