

INVESTIGATING INCIDENTS AT FIREWORK DISPLAYS

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Introduction

1. This note is intended to provide quick reference guidance to police, local authority and HSE enforcement officials on issues that may arise following an incident at a firework display. It provides information and advice on:

- whether the Health and Safety at Work Act does or does not apply;
- the allocation of responsibilities for enforcing health and safety legislation at firework displays;
- issues to consider during the investigation;
- sources of assistance and advice;
- other relevant legislation.

2. The guidance focuses mainly on issues arising from the use of fireworks. Incidents may of course arise due to other factors such as inadequate crowd control arrangements, access and egress etc.

Does the Health and Safety at Work Act apply?

3. In many cases firework displays are carried out by professional display operators, either on behalf of a commercial organisation, a local authority or even a voluntary association. In these cases the Health and Safety at Work Act clearly applies.

4. In other cases displays are organised by voluntary associations using voluntary firers. In such cases the application of the Act is much less clear-cut. In most cases the Act would not apply, however there may be cases where the organisation has employees and so is an employer and subject to the duties of Section 2 of the Health and Safety at Work Act and health and safety regulations that impose duties on employers.

5. In certain cases, the firework display operator may be using unpaid enthusiasts as volunteer firers. (This may involve a breach of the Firework Regulations 1997 which prohibit the supply of certain types of firework to the people who are not 'professional display operators' – see below). However, the display operator remains responsible for the safety of the display even if some or all of the firers are volunteers. If the display operator fails to adequately supervise the volunteers and this puts the safety of spectators (or indeed the volunteers) at risk then the operator may have breached Section 3 of the HSW Act.

6. While the Health and Safety at Work Act may not apply, other legislation may apply for example restrictions on the kind of firework that may be sold to members of the public (see other relevant legislation below).

Responsibility for enforcing health and safety legislation

7. Depending on the circumstances the enforcing authority will be either HSE (Field Operations Directorate), or the local district council or London Borough (normally environmental health department).

8. It is important to note, in order to avoid confusion, that these responsibilities are different from the responsibilities for registering and licensing the sale, supply and storage of fireworks.

9. HSE would be the enforcing authority for displays organised by:
- local authorities;
 - schools;
 - health trusts;
 - government bodies.
10. The local authority would be the enforcing authority in all other instances eg displays at pubs, hotels, and amusement parks.
11. Some firework displays may involve launching fireworks from barges moored in harbour areas or rivers. These may raise issues about the allocation of enforcement responsibility:
- in London the boundary line between local authorities bordering the river Thames runs along the river. The enforcing authority will therefore depend on which side of the river the barge is moored.
 - if the incident involved fireworks fired from a barge anchored offshore, there would need to be discussion with the Maritime and Coastguard Agency (MCA) on the division of enforcement responsibility.

Issues to consider during an investigation

12. HSE has produced guidance for display operators - [Working together on firework displays](#) (HSE Guide HS(G) 123). HSE has also produced guidance for people running displays that set off fireworks without specialist knowledge - [Giving your own firework display](#) (HSE Guide HS(G) 124).
13. The primary responsibility of the display operator is to carry out a risk assessment, and take any necessary steps, to ensure that fireworks are not launched into the crowd or hazardous debris fall on spectators.
14. To achieve this operators need to:
- assess the site and the weather conditions;
 - use fireworks that are appropriate to the site and conditions;
 - allocate suitably located and adequate zones for firing, for spectators and for any debris to land;
 - construct the display and launching/firing equipment so that the display can be fired safely.
15. These duties in turn require the operator to be competent and employ suitably competent firers.
16. In the initial investigation it will therefore be important to establish (and record):
- the site layout, and the actual location of the spectators and firing zone;
 - weather conditions if relevant;

- the construction of the display especially of any firing tubes;
- who had been responsible for setting up and firing the display.

17. In the follow-up investigation it will normally be necessary to consider the employment status, training and competence of the firers and the arrangements for supervision and management.

Sources of advice and assistance

18. HSE can provide telephone advice and assistance. It can also put authorities in touch with industry experts who can act as expert witnesses. In exceptional cases where the incident has national implications it may also be able to provide more in-depth assistance. The Health and Safety Laboratory may also be able to provide technical assistance [more detail].

Other relevant legislation

19. Firework storage is regulated by the Manufacture and Storage of Explosives Regulations 2005 (MSER). The regulations cover the storage of fireworks on the site of a display. It is unlikely that an incident at a display would involve fireworks in storage. However if this were ever the case then the relevant enforcement authority would need to be involved. The enforcing authority will depend on the area of the country:

- in the metropolitan counties, ie West Midlands, Merseyside, Greater Manchester, Tyne and Wear, or South and West Yorkshire, the fire and rescue service is responsible for licensing and enforcement of the regulations on storage. They are also responsible for licensing the supply of fireworks under the Fireworks Regulations 2004 (the fire and rescue service are also responsible for these functions under MSER and the Fireworks Regulations in certain non-metropolitan counties - ie Cornwall, Norfolk and Oxfordshire);
- in other areas, the licensing and enforcement authority is normally the trading standards department of the local authority.

20. As noted earlier, the Firework Regulations 1997 prohibit the supply of fireworks to anyone other than professional firework display operators. If it appears that a breach of these Regulations may have occurred then the relevant Trading Standards Department should be involved.

Contacts

21. The address for HSE's Explosives Inspectorate is as follows:

Health & Safety Executive
1.2 Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Tel: 0151 951 4025

Out of hours - 5pm to 8.30am ring 0151 951 3133.

email: Please use the email address that is most appropriate for your enquiry. If your enquiry is about licensing you should send it to: explosives.licensing@hse.gsi.gov.uk

If your enquiry is about classification or transportation you should send it to: cad.explosives@hse.gsi.gov.uk

22. HSE staff should consult the HID Duty Officer instructions on the Intranet.