



Gambling, Licensing & Regulatory Committee 7 September 2015

Report from the Assistant Director – Housing and Community Safety

Explosives Policy

Summary

1. This report seeks members support for the Council's Explosives Policy. It advises of the recent changes to legislation and the consultation undertaken. The Policy can be found at Annex 1.
2. The report seeks a recommendation to Full Council that the policy be approved.

Background

3. The Explosive Regulations 2014 (2014 Regs) came into force on 1 October 2014.
4. The Health and Safety Executive (HSE) has worked with stakeholders since 2010 to review existing health and safety related explosives legislation. With the aim to consolidate, modernise and, where practicable, simply the legislative arrangements.
5. The 2014 Regs consolidate and therefore revokes a number of existing explosives regulations. It brings together the requirements of health and safety related explosives legislation into a framework based around common topics such as authorisation, safety, security and placing on the market.
6. As a result of the consolidation the Approved Code of Practice to the Manufacture and Storage of Explosives Regulations 2005 has been withdrawn, along with relevant guidance.

7. The main changes to the regulatory framework include:
- merging registrations into the licensing system;
 - allowing local authorities to issue licences up to 5 years, aligning them with equivalent HSE/police-issued licences;
 - extending licensing to address storage of ammonium nitrate blasting intermediate (ANBI);
 - exceptions for keeping higher hazard and desensitised explosives without a licence have been updated;
 - tables of separation distances have been restructured to better allow for sites with more than one store; the tables have also been revised to cover quantities of explosives greater than 2000kg;
 - a revised list of explosives that can be acquired or acquired and kept without an explosives certificate from the police;
 - the repeal of the Fireworks Act 1951, as its remaining provisions have been superseded by the Pyrotechnic (Safety) Regulations 2010.

2014 Regs

8. The 2014 Regs defines explosives to mean –
- (a) any explosive article or explosive substance which would –
- i) if packaged for transport, be classified in accordance with the United Nations Recommendations as falling within Class 1; or
 - ii) be classified in accordance with the United Nations Recommendations as
 1. being unduly sensitive or so reactive as to be subject to spontaneous reaction and accordingly too dangerous to transport, and
 2. falling within Class 1: or
- (b) a desensitised explosive, but it does not include an explosive substance produced as part of the manufacturing process which therefore reprocesses it in order to produce a substance or preparation which is not an explosive substance.
9. As a unitary authority City of York Council is the licensing authority under Schedule 1, Section 1(a)(ii) of the 2014 Regs in relation to an application for the storage of up to 2000 kg of other explosive, including fireworks and small arms ammunition, where separation distances can be met.
10. The council issues licences which authorise the storage of explosives. Licences must be granted unless it is of the opinion that the applicant is not a fit person to store explosives.

11. Conditions can be imposed on a licence; every licence must include conditions that specify:
 - the site and, within it, the places where the explosives may be stored;
 - the hazard type, if any, the description and maximum amount of explosives which may be stored or otherwise present, at any one time at any place so specified.
12. Licences can be granted or renewed for a period of up to five years. Licensing authorities determine the duration of licences.
13. Fees are set by Health and Safety (fees) Regulations and are variable dependant on the amount of explosives to be stored and safety distances.

Local Authority Assent Procedure

14. Where the relevant licensing authority is the HSE or the Office of Nuclear Regulation, that authority must issue the applicant with a draft licence containing conditions which the licensing authority proposes to attach to the licence. The applicant must as soon as reasonably practicable send a copy of the application and draft licence to the local authority in whose area the manufacture or storage is proposed to take place.
15. The 2014 Regs stipulates the process that local authorities must follow when considering whether to assent to such application. If relevant representations are received, the local authority must hold a public hearing within 4 months of the date of its receipt of the copy of the application and draft licence, before deciding whether to assent to the application.

Delegation

16. It is recommended that the Assistant Director (Housing and Community Safety) to be authorised to:
 - Grant or renew licences for the storage of explosives, in accordance with the Explosives Regulation 2014, and determine the duration of the licence.
 - Refuse to grant or renew licences for the storage of explosives, in accordance with the Explosives Regulations 2014.

- Revoke licences for the storage of explosives, in accordance with the Explosives Regulations 2014.

17. Where the local authority has to determine whether to assent to an application when relevant representation are received and a public hearing must be held, it is recommended that the hearing panel will be made up of 3 Members of the Gambling, Licensing and Regulatory Committee.

Consultation

18. Consultation took place from 14 May to 30 June 2015, the following parties were consulted:

- North Yorkshire Fire & Rescue Service
- North Yorkshire Police
- Health & Safety Executive
- City of York Council Public Protection Section
- Premises currently licensed (as of May 2015)
- Councillors

19. Only one response was received to the consultation from the HSE. Their response related to their concern of conditions being included within the policy and the possible duplication with legislation. Their concerns have been taken into consideration and the conditions that were included within the draft policy at Annex 1 and 2, have been removed from the final document.

Options

20. Option 1 – approve the policy and officers recommendations regarding the delegation scheme.
21. Option 2 – amended the policy and propose an alternative delegation scheme.

Analysis

22. The council currently licence 35 premises to store explosives, a majority of these premises are supermarkets and convenience stores who store and sell fireworks.

23. Option 1 – will set a policy for applicants, licence holders and officers to follow. It will also set a delegation scheme for dealing with licence applications for the storage of explosives.

Council Priorities

24. The implementation of this policy will support the Council's priority for a prosperous city for all, by helping and supporting business to trade safely.

Implications

25. The direct implications arising from this report are:
- (a) **Financial** - There are no financial implications.
 - (b) **Human Resources (HR)** - There are no HR implications.
 - (c) **Equalities** – There are no equalities implications.
 - (d) **Legal** – There are no legal implications. By approving this report the Council's delegation scheme for determining applications will be in place.
 - (e) **Crime and Disorder** – There are on crime and disorder implications. An effective policy and licensing process will lead to the safe and secure storage of explosives, this will have a positive impact on reducing the potential for crime.
 - (f) **Information Technology (IT)** - There are no IT implications.
 - (g) **Property** - There are no property implications.
 - (h) **Other** - There are no other implications.

Risk Management

26. There are no known risks associated with this report.

Recommendations

27. Members are asked to approve option 1 and recommend to Full council that the explosive policy and delegation scheme be adopted.

Reason: To provide the council will an explosives policy that with aid applicants, licence holders and officer, and provide a delegation scheme for dealing with applications.

Contact Details

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	Report Approved	√	Date 19/08/15
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Wards Affected:		All	√
For further information please contact the author of the report			

Background papers

Explosives Regulations 2014

<http://www.legislation.gov.uk/uksi/2014/1638/contents/made?wb48617274=DCA973A7>

Appendices

Appendix 1 - Explosives Policy