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| Title of Report: | Updated Service Level Agreement with Department of Justice |
| Committee Report Submitted To: | Environmental Services Committee |
| Date of Meeting: | 5th April 2023 |
| For Decision or For Information | For Decision |

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| Linkage to Council Strategy (2021-25) | |
| Strategic Theme | Healthy, Active and Engaged Communities |
| Outcome | Enforcement of legislation related to the licensing of firework displays and the manufacture and storage of fireworks on behalf of the Department of Justice |
| Lead Officer | Head of Health & Built Environment |

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| Budgetary Considerations | |
| Cost of Proposal | N/A Income received for services provided as detailed in agreement (circa. £1,000) |
| Included in Current Year Estimates | Yes |
| Capital/Revenue | N/A |
| Code | N/A |
| Staffing Costs | N/A |

| | | | |
|--|---|---------------|-------|
| Screening Requirements | Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals | | |
| Section 75 Screening | Screening Completed: | Yes/No N/A | Date: |
| | EQIA Required and Completed: | Yes/No N/A | Date: |
| Rural Needs Assessment (RNA) | Screening Completed | Yes/No N/A | Date: |
| | RNA Required and Completed: | Yes/No N/A | Date: |
| Data Protection Impact Assessment (DPIA) | Screening Completed: | Yes/No N/A | Date: |
| | DPIA Required and Completed: | Yes/No N/A | Date: |

1.0 Purpose of Report

1.1 The purpose of this report is to consider and agree an updated Service Level Agreement (SLA) with the Department of Justice (DOJ) in respect of the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 (as amended) and the Explosives (Fireworks) Regulations (Northern Ireland) 2002 (as amended).

2.0 Background

2.1 The recently updated SLA, attached as appendix 1, outlines arrangements between DOJ and District Council Warranted Officers for enforcement activities.

2.2 Warranted Officers are Council Environmental Health Officers specifically authorised by DOJ to act as their agents under the Regulations detailed in 1.1 above. DOJ pays Councils for the service provided.

2.3 Council Warranted Officers carry out inspections of premises registered to store hazard type 3 & 4 explosives as defined in Service Schedule 1 to the SLA. Such premises typically store fireworks or air bag components.

2.4 Council Warranted Officers also carry out inspections of fireworks display sites to assess whether it is safe for a fireworks licence to be issued by DOJ. Displays may also be monitored to assess adherence to licence conditions and the general competence of the applicant/firer.

2.5 The revised service level agreement covers arrangements for:

- MSER Health and Safety Prosecution Checks
- MSER and Fireworks Display Inspections
- Enforcement
- Meetings
- Costs
- Training and Warranting

2.6 The Agreement shall take effect from the date of signing and be reviewed every two years or at any time at the request of either party. This SLA shall terminate on the expiry of six months' written notice given by either party or on the production of a newly agreed SLA.

3.0 Recommendation

It is recommended that Council accepts the Service Level Agreement and that approval be given to the Head of Health and Built Environment to sign and return the document to DoJ on behalf of Council.

SERVICE LEVEL AGREEMENT BETWEEN THE DEPARTMENT OF JUSTICE AND DISTRICT COUNCILS FOR WARRANTED OFFICERS IN RESPECT OF:

- A) The Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 (as amended) in respect of persons registered to store hazard type 3 & 4 explosives as defined in Service Schedule 1; and
- B) The Explosives (Fireworks) Regulations (Northern Ireland) 2002 (as amended) in respect of fireworks displays.

Introduction

1. This Service Level Agreement (SLA) is between the Department of Justice (the Department) and District Councils hereafter referred to as “the Council”. The Department and the Council will be known jointly as “the parties”.
2. It concerns Council Warranted Officers (WOs) enforcing -
 - a) The Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 on behalf of the Department in respect of the items listed in Service Schedule 1; and
 - b) The Explosives (Fireworks) Regulations (Northern Ireland) 2002 in relation to the licensing of fireworks displays.

MSER Health and Safety Prosecution Checks

3. On receipt of a request in writing from the Department, WOs¹ will check if the named MSER applicant has any previous or ongoing formal Council enforcement action (e.g. formal cautions, improvement notices or prosecutions) which has not previously been notified² to the Department. A reply should be made in writing within 2 weeks of the date of issue of the request.

MSER Inspections

4. WOs will carry out an **initial** site inspection to ensure that the storage complies with the guidance and to assess the applicant’s knowledge of their responsibilities contained in the “Approved Code of Practice and Guidance on the Manufacture and Storage of

¹ WOs can only respond in relation to actions taken in their own council area

² Since the last inspection, as previous enforcement action should have been notified to the Department at time of initial application/interim/renewal inspections

Explosives in Northern Ireland” (the ACoP)³ and submit a report, using the agreed MSER inspection checklist, to the Department within 3 weeks of the date of issue of the request.

5. If a WO is unable to complete the initial inspection within 3 weeks, they should notify the Department in writing. Where minor improvements are needed to meet the requirements of the guidance contained in the ACoP, the WO should first liaise with the applicant to resolve such issues, giving an appropriate period of time for completion of the works, and notify the Department accordingly. Once this period has elapsed, the WO should submit their report and recommendations to the Department.
6. Thereafter WOs will carry out 2 **interim** inspections for each site during the 5-year duration of the registration (typically in years 2 and 4) and confirm whether or not the site remains suitable and that the registered person remains fit on each occasion. The WO should complete an interim inspection report, which should be signed by the applicant/their representative and the WO, and send it to the Department within 6 weeks from date of notification that an interim inspection is due (see 7 below also). If appropriate, a reduced interim inspection schedule for a site can be agreed with the Department.
7. If a WO recommends a registration period shorter than five years, they will provide the Department with written justification. An appropriate inspection schedule will be agreed and inspection costs adjusted accordingly.
8. If the registration is to keep **fireworks**, interim inspections will be carried out at a time when the fireworks are likely to be present. This may require agreeing a suitable alternative inspection date with the Department.
9. For audit purposes, the Department may verify with registered persons that interim inspections have taken place.
10. The Department will provide advance notification of all registration **renewal** requests and WOs will carry out a renewal inspection and submit a report using the agreed MSER

³ [Manufacture and storage of explosives in Northern Ireland | Health and Safety Executive Northern Ireland \(hse.gov.uk\)](https://hse.gov.uk)

checklist to the Department as soon as possible, and no later than one week prior to the expiry date of the registration. If the registration is to keep fireworks, renewal inspections will be carried out at a time when the fireworks are likely to be present. This may require agreeing a suitable alternative inspection date with the Department.

11. If a WO recommends that a person should not be registered, or that a registration should not be renewed, or that one should be revoked, a detailed report justifying the recommendation and appropriate evidence must be provided to the Department as soon as possible.
12. The Department will share copies of certificates of registration; renewal reminder and expiry notification letters; notifications when interim inspections are due; and notifications of businesses ceasing or due to cease trading.

Fireworks Display Inspections

13. The Department, where possible, will provide the WO with a complete fireworks display application at least 4 weeks before the date of the fireworks display. Where the applicant gives less than 2 weeks' notice, the Department will contact the WO to confirm whether or not the application can be assessed.
14. WOs will carry out an inspection and risk assessment of a site for Category F3 & F4 fireworks displays to assess whether or not it is safe for a fireworks licence to be issued. For a frequently used site, with a known firer, a desk assessment is considered suitable.
15. WOs will also be requested to carry out a desk assessment if possible and/or an inspection for some Category F2 fireworks displays, to ensure site suitability. This will typically be in relation to applications for a new site, new firer or community events but will be requested on a case-by-case basis.
16. Should monitoring of the display itself be recommended, an explanation should be provided when the WO is submitting their Fireworks Display Site Checklist. For audit purposes, the monitoring WO must submit a report on the adherence to the conditions of the licence and general competence of the applicant/firer as soon as is practicable after the display. In situations where the need to monitor a display has been identified after

the checklist has been submitted to the Department, the WO should inform the Department (email is acceptable) as soon as possible.

17. The completed Fireworks Display Site Checklist should be submitted to the Department as soon as possible to allow time to consider the WO's recommendations and process the licence or advise the applicant that their application has been refused.

Enforcement

18. WOs will ensure that, when enforcing the provisions of the Regulations, their approach is consistent with the council's enforcement policy, and in accordance with any instructions from the Department.

19. If the WO identifies minor breaches, they should inform the Department as soon as possible. The Department will consider issuing a warning letter under Regulation 17 of MSER. If the WO identifies more serious breaches requiring immediate attention, they may issue an enforcement notice and/or consider prosecution. The Department must be informed immediately and will consider issue of a Regulation 17 letter under MSER. Failure to remedy the breaches may lead to the Department revoking the Certificate of Registration.

Meetings

20. Twice yearly meetings will be held between the Department and Council representatives to review processes and to share information on current registrations and fireworks displays. Ad hoc meetings can be arranged if necessary.

MSER Costs

21. Costs, as per Service Schedule 2, relate to individual registrations and not to the number of inspection visits.

22. On the Department's request to carry out an initial or renewal inspection, the Council, on completion of the inspection, will invoice the Department, in accordance with Service Schedule 2, for up to two interim inspections to be undertaken during the term of the registration, one of which may be an inspection on the ending of the registration. The

invoice will include the registration reference number and the Purchase Order Number supplied by the Department.

23. The Department will review the MSER costs annually with any increase coming into effect from 1st April.

Fireworks Costs

24. Costs, as per Service Schedule 3, relate to the inspection and risk assessment of all requested fireworks displays.

25. On the Department's request to carry out an inspection/assessment, the Council will invoice the Department in accordance with Service Schedule 3, for work completed. The invoice will include each Fireworks Licence Number, the Fireworks Display Site Inspection Timesheet and the Purchase Order Number (supplied by the Department on receipt of the Fireworks Display Site Inspection Timesheet).

26. The Department will review the fireworks costs annually with any increase coming into effect from 1st April.

MSER & Fireworks Training and Warranting

27. The Department will determine and provide appropriate training on all relevant Regulations.

28. Thereafter, the Department and the Council will co-ordinate arrangements for training of WOs to perform their functions under this SLA. Formal training for new WOs and refresher training for existing WOs will be provided where there are sufficient numbers or should a specific training need merit it, to enable WOs to fulfil their obligations under this SLA.

29. Upon receipt of a request from the Council and evidence that training has been received/completed, the Department will warrant officers and issue them with a letter of indemnification to perform their functions under the Regulations. Where an officer no longer requires their warrant, it should be returned to the Department in a timely manner.

30. WOs should be able to produce their Department of Justice-issued Warrant, on request, when carrying out MSER and fireworks display site inspections.

31. The Department shall discharge all claims made by any person in respect of any liability of the Council for injuries sustained by a WO while carrying out their duties (or services) under this Agreement.

Review and Termination

32. This SLA will take effect from the date of signing. It should be reviewed every two years or at any time at the request of either party.

33. This SLA shall terminate on the expiry of six months' written notice given by either party to the other or on the production of a newly agreed SLA.

Signed

Name: _____

Date: _____

Department of Justice

Signed

Name: _____

Date: _____

Council _____

Service Schedule 1

Hazard Type 3 & 4 Explosives

Arrangements for enforcement of Regulations 10(2) and 13 on behalf of the Department of Justice

| Police | Warranted Officers from each Council area | | |
|---|--|-------------|-------------|
| | Generic description | UN Number | Hazard Type |
| Any explosives within the meaning of MSER except when ONLY those specifically mentioned opposite are subject to the provisions in Reg. 13 And All explosives when they are subject to the provisions in Reg. 10(2) | Air Bag Inflators, Air Bag Modules, Seat-Belt Pre-tensioners | 0503 | 4 |
| | Articles, Pyrotechnic for technical purposes | 0430 | 3 |
| | Articles, Pyrotechnic for technical purposes | 0431 & 0432 | 4 |
| | Cartridges, Power device | 0275 | 3 |
| | Cartridges, Power device | 0276 & 0323 | 4 |
| | Cartridges, Signal | 0054 | 3 |
| | Cartridges, Signal | 0312 | 4 |
| | Fireworks | 0335 | 3 |
| | Fireworks | 0336 & 0337 | 4 |
| | Flares, Aerial | 0403 & 0404 | 4 |
| | Rockets, Line-Throwing | 0240 | 3 |
| | Rockets, Line-Throwing | 0453 | 4 |
| | Signal Devices, Hand | 0191 & 0373 | 4 |
| | Signals, Distress, ship | 0195 | 3 |
| | Signals, Railway Track, Explosive | 0193 | 4 |
| Signals, Smoke | 0507 & 0197 | 4 | |

| U.N. No. | Name and Description | Glossary |
|-------------------|--|---|
| 0503 | Air Bag Inflators, Air Bag Modules, Seat-Belt Pre-tensioners | Articles which contain pyrotechnic substances and are used as life-saving vehicle airbags or seat-belts. |
| 0430, 0431 & 0432 | Articles, Pyrotechnic for technical purposes | Articles which contain pyrotechnic substances and are used for technical purposes such as heat generation, gas generation, theatrical effects, etc. |
| 0275, 0276 & 0323 | Cartridges, Power device | Articles designed to accomplish mechanical actions. They consist of a casing with a charge of deflagrating explosive and a means of ignition. The gaseous products of the deflagration produce inflation, linear or rotary motion or activate |

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| | | diaphragms, valves or switches or project fastening devices or extinguishing agents. |
| 0054 & 0312 | Cartridges, Signal | |
| 0335, 0336 & 0337 | Fireworks | Pyrotechnic articles designed for entertainment. |
| 0403 & 0404 | Flares, Aerial | Articles containing pyrotechnic substances which are designed to be dropped from an aircraft to illuminate, identify, signal or warn. |
| 0240 & 0453 | Rockets, Line-Throwing | |
| 0191 & 0373 | Signal Devices, Hand | Portable articles containing pyrotechnic substances which produce visual signals or warnings. The term includes small surface flares such as highway or railway flares and small distress flares. |
| 0195 | Signals, Distress, ship | |
| 0193 | Signals, Railway Track, Explosive | Articles containing a pyrotechnic substance which explodes with a loud report when the article is crushed. They are designed to be placed on a rail. |
| 0507 & 0197 | Signals, Smoke | Articles containing pyrotechnic substances which emit smoke. In addition they may contain devices for emitting audible signals. |

Service Schedule 2

MSER Inspection Costs for the period from 1 April 2023

The Department will pay the Council £300 for work performed in relation to an initial registration and £270 for a renewal⁴.

If a reduced inspection schedule is agreed for a site, the inspection costs will be adjusted accordingly.

If an additional inspection is required, it will be agreed with the Department in advance and the Department will pay the Council £90.

⁴ For Initial Registration, 8 hours at £30 per hour on time spent on initial inspection and two interim inspections and £60 mileage for 3 journeys. For Renewal of Registration, 7 hours for renewal inspection and two interim inspections and £60 mileage for 3 journeys.

Service Schedule 3

Firework Display Site Inspection Costs for the period from 1 April 2023

The Department will pay the Council for the time spent by a WO assessing a fireworks display application (either site visit assessment or desktop only assessment), including the WO's completion of the Display checklist and associated timesheet.

The Department will pay the Council for mileage incurred by the WO for their mileage to and from the fireworks display site (in line with the revised Motor Car Allowances which have been agreed by the National Joint Council (NJC) for Local Government Services employees with effect from 1 April 2010 without exception) where a site visit was required.