

Report

Report to:	Licensing Committee
Date of Meeting:	3 December 2019
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Aerosol String
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ provide an update on the outcome of enquiries made into options available to impose licensing conditions which would restrict the sale and/or use of aerosol string products

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the content of the report be noted; and
- (2) that it be noted that there is currently no legal or factual basis for the imposition of a licensing condition prohibiting the sale and/or use of aerosol string products.

3. Background

- 3.1. Concerns have been raised by some elected members on behalf of their constituents in relation to possible environmental and public nuisance issues related to the use of aerosol string products in public areas, particularly around events such as Lanimers and Landemer Day.
- 3.2. The issue was raised by an elected member at this Committee in the context of a Street Trader's licence application. The possibility of introducing a condition for street traders, prohibiting the sale of aerosol string was discussed, and the view was that as this is a product which is freely available in shops, there would be no rationale for imposing conditions on street traders.
- 3.3. It was clarified by Police Scotland that this product is not covered by the ban on the sale of aerosol products to under 16's. Members requested that further enquiries be made to establish whether Community and Enterprise Resources had any concerns regarding the environmental impact of aerosol string.

4. Present Position

- 4.1. Community and Enterprise Resources advised that they had previously considered this issue following a complaint made after Landemer Day in 2015.

- 4.2. It was reported that staff had no particular issues in relation to the clean-up of aerosol string. The act of spraying aerosol string is not considered to constitute an offence under Environmental Protection legislation. It was considered that a bye-law would not be likely to attract the support of the Scottish Government or Police Scotland due to the limited scale of the issue and the issues around enforcement.
- 4.3. The view that spraying aerosol string does not constitute a littering offence was stated to be in keeping with the view taken by “Keep Scotland Beautiful”.
- 4.4. The option of adding a condition to street traders’ licences to prevent the sale of aerosol string would not be effective in addressing the problem as shops would not be covered. In addition, a licensing condition of this nature, would be vulnerable to legal challenge as it would restrict traders’ freedom to contract. Such conditions have been found by courts to be unenforceable.
- 4.5. The option of adding a condition to public entertainment licences to prevent the use of aerosol string at licensed events would have to be justified with regard to licensing purposes, for example, evidence relevant to prevention of crime and disorder, public safety or environmental protection would be required.
- 4.6. The enforceability of any licensing condition would also have to be considered and, to be effective, would require the support of Police Scotland

5. Employee Implications

- 5.1. None.

6. Financial Implications

- 6.1. None.

7. Other Implications (Including Environmental and Risk Issues)

- 7.1. The risk to the Council is that it fails to address any potential concerns in relation to environmental issues or public nuisance.
- 7.2. There are no apparent implications in terms of sustainable development.

8. Equality Impact Assessment and Consultation Arrangements

- 8.1. There is no requirement to carry out an impact assessment in terms of the proposals contained within this report.
- 8.2. Community and Enterprise Resources were consulted in relation to the contents of this report.

Paul Manning

Executive Director (Finance and Corporate Resources)

4 November 2019

Link(s) to Council Values/Ambitions/Objectives

- ♦ Make communities safer, stronger and sustainable

Previous References

- ◆ None

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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