



# Isle of Man Office of Fair Trading

## CONSULTATION ON PROPOSED CONSUMER SAFETY REGULATIONS PROHIBITING SALES OF SKY LANTERNS IN THE ISLE OF MAN

### SUMMARY OF RESPONSES



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# 1. Introduction

The consultation document was produced to invite comment on proposed safety regulations under the Consumer Protection Act 1991, which would prohibit the sale of sky lanterns in the Island.

The OFT has powers under the Consumer Protection Act 1991 to introduce safety regulations which can either secure the safety of a product when it is sold or, if necessary, ban sales of a product altogether. Having regard to the advice of the Chief Fire Officer, the OFT has concluded that a case exists for a prohibition on sales of sky lanterns in the Island.

The OFT and the Chief Fire Officer accept that the best solution would be for a **ban on the use of sky lanterns**, but neither the OFT nor the Department of Home Affairs currently have any legal powers to do that. The Department of Home Affairs will consider the inclusion of the necessary powers in future primary legislation, but this will inevitably take some time. As an interim measure, the OFT considered making safety regulations under the Consumer Protection Act 1991, which would prohibit the sale of sky lanterns in the Island.

The OFT would like to thank all respondents for the time and effort that has been put into replying to the consultation.

# 2. The Consultation Exercise

The consultation exercise ran from 26<sup>th</sup> May 2015 to 3<sup>rd</sup> July 2015 and was distributed to the following:

- Tynwald Members
- Attorney General
- Local Authorities
- Chief Officers of Government Departments, Boards and Offices
- Isle of Man Chamber of Commerce
- Isle of Man Law Society
- Manx National Farmers' Union
- RNLI – Isle of Man Branch
- Isle of Man Coastguards
- Isle of Man Airport
- Isle of Man Fire Service

- Isle of Man Friends of the Earth
- Manx Wildlife Trust
- British Horse Society ( IOM Branch)
- Local retailers known to have sold/likely to sell sky lanterns

The document was also made available in the 'Consultations' section of the Isle of Man Government and Office of Fair Trading websites.

### 3. The Responses

A total of 45 responses were received. A list of respondents is attached at **Appendix 1** and a summary of those responses together with representative comments is attached at **Appendix 2**.

### 4. Conclusion

Following the consultation exercise and further detailed consideration of the responses and opinions received, the OFT agreed it was appropriate to proceed to make regulations.

The proposed safety regulations will now be drafted with the aim to put them before Tynwald at its sitting in October 2015. If approved by Tynwald, the Regulations will come into force on the day they are approved.

It was further agreed that these regulations would be an interim measure and that the OFT would write to the DHA advising them of this fact, and request that the necessary primary legislation, to ban the use of sky lanterns, be introduced within 3 years.

## APPENDIX 1

### LIST OF RESPONDENTS

Isle of Man Chamber of Commerce  
Christy Whitton  
Paul  
W Henderson MLC and J Houghton MHK  
J Turner MLC  
Ian Buxton  
Sheila Norris  
Erica Humphries  
Miriam Critchlow  
John Kermode  
Matthew Warren  
Angie Brook  
James Martin  
Hazel  
Wendy Hurst  
Neil Kinley  
Office of Fair Trading, Department of Justice and Attorney General (Brisbane, Australia)  
Chris Nicholls  
Isle of Man Harbours and Coastguard  
D Martin / JJ Martin  
Stuart Hill  
Manx Utility Authority  
Santon Commissioners  
Laxey Commissioners  
T Wild MLC  
Anonymous  
Douglas Borough Council  
Roxanne Oldham  
Patrick Parish Commissioners  
JAC Distribution Ltd  
Susan Woolard  
Lezayre Commissioners  
Marown Commissioners  
Manx National Farmers' Union  
Ramsey Town Commissioners  
Isle of Man Friends of the Earth  
Department of Infrastructure (DoI)  
Manx Wildlife Trust  
Department of Environment, Food and Agriculture (DEFA)  
Manx National Heritage  
Janette Gledhill  
Andreas Parish Commissioners

Ballaugh Parish Commissioners  
Jurby Parish Commissioners

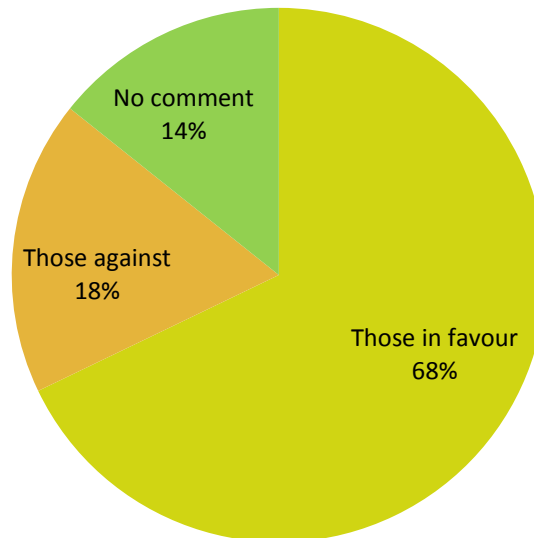
One further response was received but marked confidential and therefore has not been named in the above list; however the comments made have been included in **Appendix 2**.

## APPENDIX 2

### SUMMARY OF RESPONSES

#### General comments – Statistics

##### General Views Expressed in Regard to a Ban on Sale



#### General Representative Comments – Those in favour

- I am in favour of the sky lantern ban. If someone threw something on the floor it would be classed as littering, just because it goes in the air doesn't make it okay. All for banning them on our Island. (Christy Whitton)
- I am writing in support of a ban on the sale, import and launching of Sky Lanterns in the Isle of Man. I have launched two of these Lanterns in the past and was unaware at the time of the risk to cattle and livestock that the wires inside these lanterns can cause. With sustainable farming a key industry in the Isle of Man, more awareness of the risk these lanterns place to animals is needed. While the lanterns offer a romantic way to mark an event that many may enjoy, the current metal wire constructions are not compatible with the environment. If an alternative bio degradable version could be found with e.g. bamboo supports, these could perhaps be permitted after a safety review. (Ian Buxton)
- I have used them in the past, it was not a good experience as the wind took the lantern, and I had to run after it in the dark to stop it setting dry long grass on fire. The risks are huge. (Matthew Warren)
- Isle of Man Coastguard has dealt with a number of reports concerning these items over the years where they have been mistakenly identified as 'Coastal distress flares'. Thankfully

there have been none recently, partly due to a campaign when they first appeared on sale by ourselves working with the local retailers who helpfully placed a warning sticker on the packs advising the purchaser to contact our Marine Operations Centre prior to launching indicating area and numbers to be set off. Whilst there is still potential for these items to create 'false' reports it is now a fairly uncommon event but will still take up time and resources to investigate which could divert assets away from a possible primary task so we would support the view that they could potentially pose a 'risk to safety'. Restricting sales only 'on island' would not mitigate the risks as the majority of these products would surely be purchased 'off island' via the internet, therefore, we would need to prohibit the use rather than purchase by legislation. Whilst difficult to police would it be possible for legislation similar to the present fireworks legislation to be drafted prohibiting the launch of such items? Whilst any restriction should be welcomed it does seem that attempting to only restrict the sales 'on island' will do little to resolve the issue due to the reasons stated above. As per your examples of other jurisdictions there are alternative products currently on the market that will satisfy the 'greener' approach to allowing these products to be used on an environmental basis but even these measures will not mitigate the safety risks posed by Fire or False Distress reporting. (Isle of Man Harbours and Coastguard)

- The Board fully supports the recommendations made in this consultation. (Laxey Commissioners)
- My basic starting point is a ban. However perhaps an event could be licensed to use these devices. One landed in a tree in my garden and there is a real fire risk e.g. a traditional thatched Manx cottage. (Tony Wild MLC)
- In brief Sky Lanterns pose a risk to both livestock and dry fields of grassland, moorland and arable crops and the MNFU totally supports the prohibition of the sale of sky lanterns. The MNFU are receiving increasing reports from members who have found both lit and extinguished lanterns near to farm buildings, dry arable crops and fields with grazing livestock. They also pose a danger to the wildlife of the Isle of Man. These reports prove a significant risk to cattle if they ingest the fine wires whilst grazing. Also when the grass is cut for baled hay or silage, the wire is chopped up and is subsequently contained within the bales and is ingested when fed to the cattle. There have been two known instances on Island when cattle have died suddenly due to ingesting pieces of wire, even though modern silaging machinery is fitted with magnets, in an attempt to reduce the risk of wire from sky lanterns. In other sudden death of livestock cases it has been suspected that ingestion of wire from sky lanterns has been to blame. Post mortems proved that the wire originated from sky lanterns. The cost of replacing cattle is around £2,000 each and takes no account of animal suffering. The other huge risk is due to fire. Lit sky lanterns pose a fire risk to any crops, grassfields, hill land, stacks of hay or straw, forestry, arable and farm buildings especially during the dry season. There is also the issue with unsightly litter that they cause. The English NFU are also at the forefront of banning the sale of sky lanterns and is part of their policy from April 2015. The NFU have welcomed a Code of Conduct for Sky Lanterns but still insist that an outright ban on the sale of them should be in place. In June 2013 it was proved in Smethwick that a sky lantern landed started a warehouse causing £6m of damage and putting three firemen in hospital. If this type of incident were



to happen on the Isle of Man with our historical buildings the impact could be enormous and sky lanterns would have been banned immediately. Many Councils in England have banned the use of sky lanterns on their lands. These councils are Essex, Cardiff, Birmingham, Caerphilly Pembrokeshire, Port Talbot and parts of Oxfordshire with restrictions and bans on the sale and use of sky lanterns. Sky lanterns have also been proved to be detrimental on the Sea with the RNLI being called out on numerous occasions in other areas when a sky lantern was thought to be a distress flare. The MNFU understand that sky lanterns do look attractive for a short while and can have a symbolic meaning to people. However, the MNFU would urge the prohibition of the sale of sky lanterns due to the long term potential effect they may have on both livestock and the countryside in general. After research on the internet sellers of sky lanterns state that the 'paper balloon is bio-degradable but the tray and frame is wire'. Even those lanterns which purport to be bio-degradable state there is a small amount of wire. The MNFU believe that no alternative approach could be viewed as appropriate. Sky Lanterns are available to purchase widely over the internet and no Regulation could be put in place to ensure that only the 'safe' sky lanterns are imported into the Isle of Man on every occasion. (Manx National Farmers' Union)

### General Representative Comments – Those against

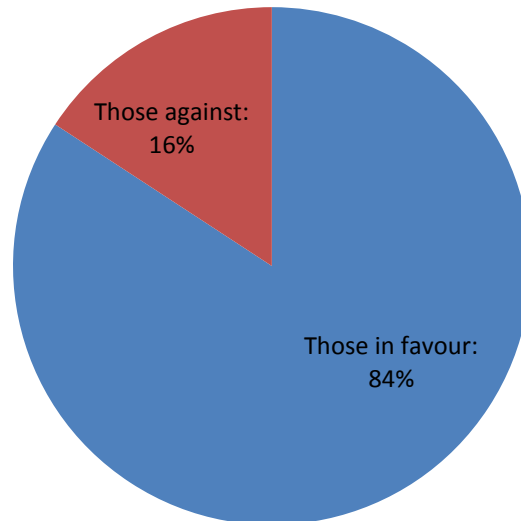
- A complete and utter waste of time One Cow has allegedly died In the same time period, how many animals have died from vermin poisoning or traffic accidents for example? Yet are poison baits and cars banned? No I repeat - a complete and utter waste of time If the OFT wants to do something then get a grip on the cost of utilities, ferry costs and communications costs which are demonstrably damaging the economy. (Paul)
- I haven't got much to say on this subject. I quite like them, in the right circumstances and 'launch' areas. Designated launch areas? Light touch legislation. I don't like the idea of an outright ban. Also, how do you cater for the launch of one from a 'back yard?' – just as a one off? Kids party say. I say these comments in the light of there only been 'one ever' incidence of a problem. Also, what about 'home made jobs'? Mr. Houghton, MHK wishes to be associated with the above also, if you can put 'us both down' as responding. (Mr Henderson MLC and Mr Houghton MHK)
- With regard to the consultation regarding sky lanterns and their sale on the island, I have been requested to investigate and submit a response with respect to the electricity network within the MUA. Having undertaken this investigation, I believe that any risk posed to our network is very small, and as such have no real issues regarding their sale or use on the island. (Manx Utilities Authority)
- Ramsey Town Commissioners have considered this consultation and resolved that they feel unable to support the proposals as it is impossible to prevent the purchase of sky lanterns "on-line". The Commissioners noted that there is no practical way of enforcing this provision on which basis the Commissioners expressed concern at the cost to tax payers of running the consultation. (Ramsey Town Commissioners)

### OFT Response

Whilst the OFT welcomes the general support, it does appreciate that some of it is for reasons of concerns about animal welfare; which is outside the scope of the legislation under which the regulations are proposed. The OFT accepts that a ban on the use of these products would be far

more effective, but it was asked by the Department of Home Affairs to introduce the ban on sales as an interim measure.

## Q1. Do you support the view that sky lanterns pose a significant risk to the safety of the public? – Statistics



### Question 1 Representative Comments – Those in favour

- Yes. In general for the reasons stated in the consultation document. More specifically, a few years ago a lit sky lantern skimmed ahead of me just above the dry, grassy verge of Mountain View, Peel. Before I could catch up with it it took off across some gardens and out of sight. I half-expected to hear the fire engine soon afterwards. They definitely don't all go out before getting to roof height or below. They are dangerous litter that cannot be retrieved by those responsible for them. (Miriam Critchlow)
- They pose a serious fire risk as they have a naked flame within them and they do not always burn out before returning to Earth. I am a farmer with significant stocks of stacked hay stored for winter and in haymaking season there are large areas of cut tinder-dry hay awaiting baling. One of these objects landing, even smouldering could cause a serious fire and significant financial loss, as well as a shortage of animal fodder for the winter. I have witnessed these being mistaken for orange distress flares. Our farm is near Peel Hill and some were let off at the back of Corrin's Folly and they appeared to be out at sea from our viewpoint. Coastguards were informed at the time. They do have wire in them and I have found them in our fields in the past. Even if wire is replaced with plastic they could still be a risk to cattle if they eat them. Their flight path is unpredictable and is dependent on weather and wind condition; there is no telling how far or how high they will travel or where they will land. They could pose a threat to aircraft. (James Martin)
- Yes - they can cause fire, and not only to the property of the person using them, but more often to other people's property some distance away from where they are first let off! They are also a danger to animals. It is the indiscriminate danger that is the issue. Unlike smoking, climbing, motorsport - where the user makes their own personal choice to do what they do, and lives with the consequences - sky lanterns damage third parties - the user gets away with no harm! (Roxanne Oldham)

- DEFA are aware of the significant risk sky lanterns pose to the environment, public and animals. DEFA have a statutory obligation to protect marine species such as marine mammals and sea turtles. Marine litter of this sort has been demonstrated to impact negatively on these protected species so we would support an initiative that aims to reduce marine litter. It is clear that the issue is of widespread concern in the farming community. Apart from the risk of lethal consequences for cattle, there is also risk in the scaring other animals and a fire hazard if lanterns land when still alight, or hot. (DEFA)
- Yes. MNH is concerned about the fire risks of sky lanterns, especially the danger posed by dry heathland, where fire can spread quickly. Uncontrolled fire can seriously damage wildlife habitats and threaten livestock and this could be a very serious issue for MNH if it happens on the Calf of Man, where loghtan sheep, wardens and visitors to the Island would be at risk. We are also concerned that discarded or lost lanterns constitute a litter nuisance and may cause serious injury or worse to livestock and pollute water bodies. (MNH)

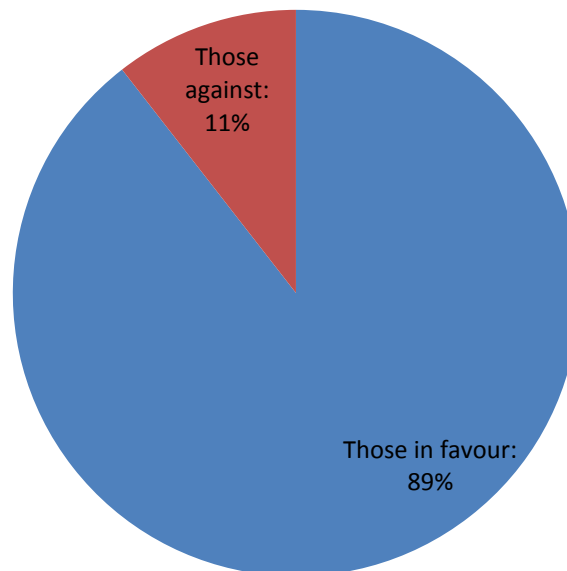
### Question 1 Representative Comments – Those against

- No, there a very many more things in life that present a significant risk. This in my view is not one of them. (John Kermode)
- No I do not. The examples used in your consultation are poor, sporadic & show that Chinese Lanterns provide far less risk than fireworks. Fireworks cause hundreds of injuries every year, mainly to children, whereas sky lanterns cause very few & in fact your survey could only draw on one incident from 2010!!! The fire in the UK at the plastics factory was caused by the management leaving highly flammable materials in huge quantities lying around unprotected and a fire could have been caused by any number of ways other than a sky lantern. A stray firework, an especially hot day, lightening, a carelessly discarded cigarette. (Hazel)
- No. They do not pose a “significant risk” to the public but more a risk to livestock. (JAC Distribution)

### OFT Response

Whilst sky lanterns may not be the most significant risk to public safety in the Isle of Man, they present a risk that can be eliminated with very little negative impact.

## Q2. Do you support the view that ideally, the use of sky lanterns in the Island should be banned and if so, provide suggestions for how this measure could be achieved? – Statistics



### Question 2 Representative Comments – Those in favour

- Yes, I support this. Legislation has been passed to ban the use of gyro-copters in the vicinity of the TT Course during racing – could this be used as a template for legislation relating to sky lanterns? (Erica Humphries)
- Yes, I support a ban on their use. Ideally this should be achieved by public support and conscience but it should be an offence to release them and the police should have powers to prevent such a release and to seize lanterns which they have reason to believe may be released. They should not be sold for release on the island and their import should be controlled, although I appreciate that this is difficult with internet shopping and relaxed customs procedures. (Angie Brooks)
- It is easier to ban them outright and impose a large fine for using them consummate with the cost of cleaning up and possible damage incurred. Fine people selling them. Liaise with internet companies such as ebay and amazon to see if its possible to block their sale. These companies could be made responsible for consequences of selling them? (Neil Kinley)
- I do support the ban but I think it will be hard to implement. (Anonymous)

### Question 2 Representative Comments – Those against

- No, I feel there are too many moves to ban things. (John Kermode)

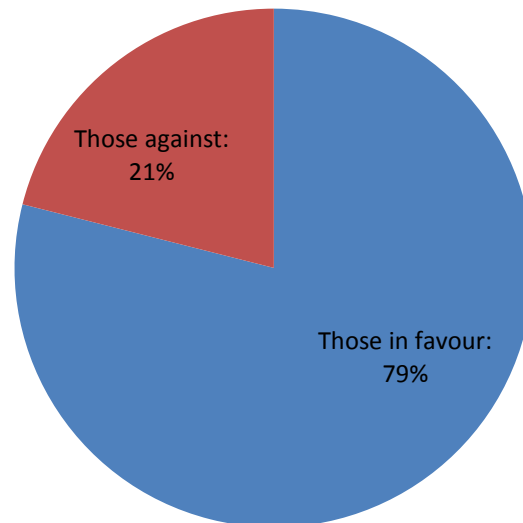
- No I do not support this. It is very easy to build your own sky lantern & almost certainly more dangerous than buying one! I do not agree with arbitrarily banning this & that for no good reason other than a few people support it. (Hazel)

### **OFT Response**

The OFT welcomes the broad support for the proposal which, it is anticipated, will be progressed by the Department of Home Affairs.

The OFT would, however, urge caution in regard to the suggestion that major internet suppliers should be asked to make special arrangements for the Isle of Man market. For suppliers like Amazon, the Isle of Man market is such a small part of their British (let alone European) operation that you could easily provoke a territorial exclusion. Whilst that would favour local traders, it would not be in the interests of consumers.

### Q3. Do you support the view, that as an interim measure, the OFT should ban the sale of sky lanterns in the Island?



#### Question 3 Representative Comments – Those in favour

- Yes, because of the risks posed to people, animals and the environment (unsightly litter etc). (Confidential)
- If use cannot be banned immediately then this should restrict their use and raise public awareness. (D Martin/JJ Martin)
- Yes, but I suspect most are not purchased on the Island. (Susan Woolard)
- We agree that, pending legislation, the sale of sky lanterns should be banned in the Island. (Isle of Man Friends of the Earth)
- Yes. For the reasons suggested in the consultation document: it would provide a swift interim solution until primary legislation can be progressed. (MNH)

#### Question 3 Representative Comments – Those against

- Absolutely NO - There would be no benefit to banning the sale on Island when they are more readily available on the internet. Have the department even done any research into how many outlets sell them on Island? By banning the sale on Island you are treating the Island's retailers differently to others and putting them at a disadvantage. It should either be a complete ban or no ban. (JAC Distribution)
- No. I believe that this would penalise local traders and encourage people to make on-line purchases. Efforts should be directed at a ban if that is what is required. (Janette Gledhill)

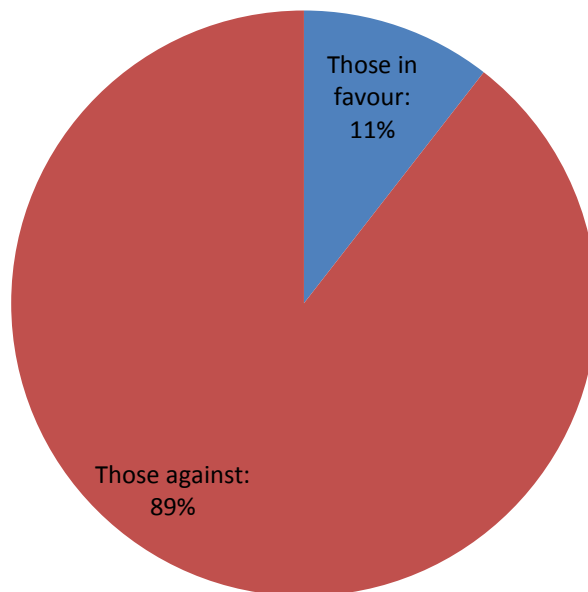
- No, with the internet this is silly. (John Kermode)

### **OFT Response**

There can be no doubt that a ban on use is the best approach, but that will require primary legislation which means a minimum of one year after the 2016 General Election. The proposed regulations are only an interim measure but one which, in the words of the Martins, will also “raise public awareness”. It would be hoped that a ban on sale or use would have a very minimal impact on the businesses of local traders.



**Q4. As an alternative approach, do you believe that it is possible through Regulations (covering for example, manufacturing methods avoiding use of metal wire) or guidance on safe use, to reduce the risk posed by sky lanterns to an acceptable level, and thus permit their continued sale? – Statistics**



**Question 4 Representative Comments – Those in favour**

- Yes I do support this approach, however we are a small Island and I fail to see why we should be the ones to introduce such legislation. The UK will do so in due course as they did for the far, far more dangerous firework. However, only biodegradable materials should be used in manufacture, they should only be sold & used by over-18s, there should be guidance about letting them off (eg not in strong winds, not near power lines etc). (Hazel)
- I think this is better. (John Kermode)
- Having used Sky lanterns I see no reason to ban them outright, but propose that they should only be sold if made from biodegradable material with no wire. There are many on offer from Amazon (for instance). The fire risk is very minimal, as once the balloon has filled with rising hot air from the small fire pad, it rises into the air and only descends when the heat source from the flame has gone out, so I cannot see this as a fire hazard. Fireworks are much more dangerous, and so too are aromatic candles in houses (which are becoming increasingly popular) . Not to mention matches and smoking. I think the government should address more serious issues. (Chris Nicholls)

**Question 4 Representative Comments – Those against**

- I do not think there is a safe use, as there is Fire, aviation, consumer safety and litter risk even if the wire is taken out. (Matthew Warren)

- I do not believe that they could ever be made safe whilst they use a naked flame or burning source for heat. They travel long distances from their point of release and can never be guaranteed to land with the flame extinguished. There can not be an acceptable level of burning objects landing from the sky from a mile or several miles away .Even if released to travel offshore they will eventually end up littering the beaches when washed up. (James Martin)
- No. The regulation approach would be a bureaucratic and legislative nightmare, and consequently a drain on the public purse. It would be bound to leave loopholes. (confidential)
- I do not believe by making lanterns safer by not using metal people will still be stupid with them. I think they should be banned altogether. (Anonymous)
- Not possible. Manufacturers are not going to bother making products conforming to the requirements of such a tiny Island. Like dodgy toys, there will always be a producer (probably China) and an importer, prepared to introduce products that are illegal and defective. (Roxanne Oldham)
- We understand that alternatives such as bamboo still result in sharp and relatively stiff shards that again cause injury. No alternative structural product reduces the fire or scaring risk, as far as we are aware. (DEFA)

### **OFT Response**

On balance, we agree with the DEFA view – ultimately it is releasing something burning into the air with no means of knowing where it will land or whether the fire will still be burning - that is the real risk to humans.