

**DETERMINATION MADE IN RELATION TO THE LOYAL PEACEFUL PROTESTERS PARADE
NOTIFIED TO TAKE PLACE IN BELFAST ON SATURDAY, 30 NOVEMBER 2013**

INTRODUCTION

1. Section 8 (1) of the Public Processions (Northern Ireland) Act 1998, provides that:

“The Commission may issue a determination in respect of a proposed public procession imposing on the persons organising or taking part in it such conditions as the Commission considers necessary.”

2. The Commission has noted the details provided on the Form 11/1 submitted on 22 October 2013 concerning the Loyal Peaceful Protesters parade in Belfast on Saturday, 30 November 2013. The Commission has considered the need to issue a determination as outlined above, against the factors described in its Guidelines document.
3. The Commission has had special regard to the nature of this parade in the light of the above Act, the Commission’s stated principles (as set out in its annual reports), the Statutory Guidelines and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It has also considered and evaluated all representations received, including the issue of past behaviour, and all information assembled. The Commission has subsequently concluded, considering all relevant factors, that the determination which it now makes is the most appropriate for this particular parade at this particular time.

BACKGROUND

4. The Commission notes that the purpose for this event has been stated as “Human Rights Political Policing PSNI Brutality”.
5. The Commission notes that this is not a traditional parade.
6. The Commission has heard oral representation from Sinn Fein outlining concerns in relation to this parade and the behaviour of the large number of supporters of the parade. The Commission has also heard from a delegation representing city centre businesses, the hospitality, leisure and tourism industry about the negative impact of parades processing through the city centre at peak trading times.

7. The Commission is conscious of the potential restriction to the normal commercial activity of the city that may result from a parade of this size with up to 10,000 people and 40 bands notified to take part. The Commission is aware of the cumulative impact of parades and protests on the commercial life of the city, especially on Saturday afternoons and the impact of recent media coverage. The Commission again notes this is not a traditional parade.
8. The Commission has been informed that this date, the last Saturday in November, is traditionally the busiest trading day of the year and is crucial to help the survival of the already hard pressed city centre traders. The Commission has been informed that the period after midday is the busiest and most significant for traders.
9. The Commission has also noted the very recent comments from the leaders of two main unionist parties expressing their serious concern about the parade going through the heart of Belfast retail sector on this Saturday. They have asked that people reflect on the damage that would be caused to Northern Ireland and traders in Belfast potentially leading to job losses.
10. The Commission is very conscious of the stated purpose of this parade being "Human Rights Political Policing PSNI Brutality" and notes that there has been no direct engagement from those organising and supporting this parade with retailers and traders. The Commission is disappointed that to date it has not received any representations from unionist politicians.
11. We expect that all elected representatives, clergy, community activists and representatives of the parading organisations will demonstrate genuine civic leadership by using their influence to reduce the potential for conflict and to enhance robust, durable and good community relations whilst encouraging all to uphold the law.
12. The Commission re-affirms its views that solutions to parading and related problems in Northern Ireland can be best achieved through meaningful and sustained dialogue.
13. The Commission reaffirms the need for all those taking part in parades and protests to do so in a dignified manner. In sensitive areas, such as those touched on by this parade it is particularly important that those in the parade show respect for all those living in the area.

14. In the absence of an understanding in respect of this parade, the Commission has come to the conclusion that, should the parade proceed without restriction, there will be an adverse effect on already fragile community relations, negative impact on community life and potential for public disorder. The Commission therefore fulfil its statutory obligation and make a determination on this parade.

CONSIDERATION.

15. The Commission is obliged by statute to have regard to the Guidelines issued under Section 5 of the Public Processions (Northern Ireland) Act 1998 and has done so. The Commission has also been alert to its duties as a public authority under Section 6 of the Human Rights Act 1998. The Commission believes that, from the perspective of the parade organisers, the Convention rights engaged are those protected by Articles 9, and 10, and, in particular, Article 11. None of those rights is absolute.

16. Further, the human rights of other persons, to whom the Commission also owes a legal duty, must be equally considered. Those who live, work, shop, trade and carry on business in the affected locality enjoy rights under Article 8 of the Convention and Article 1 of the First Protocol thereto. In common with Articles 9, 10 and 11, none of these rights is absolute. The Commission has also been mindful to take into account its positive obligations under Article 2 of the Convention. Similarly it has been mindful of the provisions of Article 17 of the Convention.

17. It is not possible for all of those who would claim the benefit of the Human Rights Act 1998 to exercise and enjoy their Convention rights to the fullest extent, where rights are in competition with each other. The Commission, therefore, has had to undertake a balancing exercise, bearing in mind the statutory Guidelines, in an attempt to reach a determination which is fair and proportionate in all the circumstances. In addition to having regard to the Guidelines the Commission has had regard to the criteria specified in Section 8 (6) of the Public Processions (Northern Ireland) Act 1998.

18. The Commission has also had regard to the issue of engagement. One of the seven fundamental principles identified by the North Report is that all those involved should work towards resolution of difficulties through local accommodation. As required by the statutory Guidelines, the Commission has had regard to the seven North principles.
19. As indicated at page 15 of its second Annual Report, the Commission (while avoiding an excessively prescriptive approach) considers the essence of engagement to be attempts at genuine communication between protagonists to a particular parading dispute. A series of 'pointers' to what constitutes genuine engagement is listed on page 16 of that report.
20. As stated in paragraph 4.4 of the Guidelines, the Commission takes into account any communications between parade organisers and the local community or the absence thereof. Further, the Commission will assess the measures, if any, offered or taken by parade organisers to address genuinely held relevant concerns of members of the local community.
21. The Commission has also taken into account the possibility that if a large scale policing operation is required the disruption to the local community and the possible infringement of protected Convention rights will increase commensurately.
22. The Commission has had regard to the nature of this parade, the purpose of which is described earlier in the determination.
23. Having considered all the evidence, information and advice available to it, the Commission takes the view that it is necessary to place conditions on the parade in order to emphasise the importance of respectful behaviour in this sensitive area. Whilst recognising the fundamental importance of the right to freedom of assembly, the Commission finds it necessary to exercise its powers under Section 8 of the Public Processions (Northern Ireland) Act 1998 to place restrictions on the parade.
24. In pursuing these conditions, the Commission pursues the legitimate aims laid down in Article 10 (2) and 11 (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, of seeking to prevent disorder and to protect the rights and freedoms of others.

25. In determining whether the conditions are necessary in a democratic society and proportionate, the Commission has regard, inter alia, to the criteria set down in Section 8 (6) of the Public Processions (Northern Ireland) Act 1998 and to its own Guidelines made under Section 5 of the Act and to which under Section 8 (5) it shall have regard when making a determination.

26. Having regard to the factors set out above the Commission considers that the conditions it now imposes are necessary and proportionate to the aim pursued. The conditions are not such as to affect significantly the individual's right to assemble. The Commission believes that the conditions it imposes strike a fair balance between the needs of the community and the rights of the individual.

DETERMINATION

The Parades Commission's determination is that the following conditions are placed on the organiser and participants in the parade by Loyalist Peaceful Protesters in Belfast on Saturday, 30 November 2013.

- A. The parade in its entirety shall be clear of the assembly point at the City Hall no later than 12.00 noon and shall also have passed the Royal Avenue/North Street junction on the notified route no later than 12.30pm.
- B. Only the bands notified on the Form 11/1 shall participate in the parade.
- C. When the parade is in progress there shall be no undue stoppages or delays.
- D. The parade organisers shall ensure that the band leaders and all band members are given written details of the conditions listed above in accordance with section 2.3 of the Code of Conduct.
- E. The organisers shall arrange for the presence of an adequate number of stewards to ensure that all parade participants and supporters act in an orderly manner.
- F. All participants and supporters of this parade must behave with due regard for the rights, traditions and feelings of others in the vicinity; refrain from using words or behaviour which could reasonably be perceived as intentionally sectarian, provocative, threatening, abusive, insulting or lewd; obey the lawful directions of parade organisers and stewards at all times, from assembly to dispersal and comply with police directions and in accordance with legislation.
- G. The organisers and all participants in the parade shall comply with the conditions set out at Appendices A and B of the Commission's Code of Conduct. For ease of reference, these are reproduced below.
- H. The Commission further re-affirms the importance of respectful behaviour in the vicinity of interface areas, namely that there shall be no singing, chanting, or loud drumming and that marching should be dignified. More generally, no paramilitary-style clothing is

to be worn at any time during the parade and flags, bannerettes and symbols relating to a proscribed organisation shall in no circumstances be displayed.

- I. The parade organisers shall ensure that all stewards and participants obey any direction given by the police in relation to this parade.
- J. The parade organisers shall ensure that these conditions are drawn to the attention of all participants and supporters.

Signed: Peter Chow
(On behalf of the Commission)

Date: 20th November 2013.

APPENDIX A

Guidance for Anyone Participating in Parades

A. Behaviour

All participants in parades should:

- behave with due regard for the rights, traditions and feeling of others in the vicinity,
- refrain from using words or behaviour which could reasonably be perceived as being intentionally sectarian, provocative, threatening, abusive, insulting or lewd,
- obey the lawful directions of parade organizers and stewards at all times, from assembly to dispersal,
- abide by the conditions of this Code of Conduct,
- comply with police directions and in accordance with legislation.

B Dress

No paramilitary-style clothing is to be worn at any time during a parade.

C Parade

Whenever possible, the parade should be positioned on one side of the carriageway so as to allow for the free flow of traffic, or as otherwise stipulated by police.

D Route

Participants should keep to the designated route as directed by the police.

E Alcohol

Alcohol should not be consumed immediately prior to, or during a parade. An organizer or steward, who believes a participant to be under the influence of alcohol, should take the necessary measures to remove that person from the parade.

F Bands and Music

Each band must clearly display its name. Restrictions on the playing of music will be in accordance with the conditions as set out in Appendix B of this Code. No musical instrument will bear any inscription or mark of a proscribed organization.

G Flags etc.

Flags and other displays often have a legitimate historical significance, but in no circumstances should such items relating to a proscribed organization be displayed.

H Stewards

The names of stewards will have been notified to the police and the Parades Commission at the time of notifying the proposed parade.

Stewards should:

- be properly trained
- be briefed by the organizers prior to the parade
- carry proof of their status at all times during the event, and provide this information to police on request
- be fully aware of their responsibilities and role
- be highly visible by means of jackets, singlets, armbands, etc.
- not consume alcohol before or during the parade
- co-operate with the police
- be prepared to identify to the police any persons in the parade who may be committing any offence against criminal law.

I Policing

Organisers of parades must co-operate with the police from the time of submission of the notice of intention to parade until the parade disperses.

J Dispersal

When a parade has concluded, all those taking part must disperse immediately. It will be the responsibility of the organizers to ensure compliance with instructions in this regard.

K Abiding by Conditions

Organisers must ensure that all participants in any parade have been informed of any conditions imposed. As a general principle, the organiser is responsible for the behaviour of all participants and for ensuring compliance with the Code of Conduct.

APPENDIX B

Guidance for Anyone Participating in Parades in the Vicinity of Sensitive Locations

A Places of Worship

Only hymn tunes should be played.

When church services are taking place, no music should be played.

There should be no irreverent behaviour.

Marching should be dignified.

B War Memorials and Cemeteries

Only hymn tunes should be played.

Behaviour should be respectful.

Marching should be dignified.

C Where the Majority Population of the Vicinity are of a Different Tradition, and in Interface Areas.

Behaviour should be respectful.

There should be no excessively loud drumming.

Participants should refrain from conduct, words, music or behaviour which could reasonably be perceived as intentionally sectarian, provocative, threatening, abusive, insulting or lewd.

Marching should be dignified.