
DETERMINATION MADE IN RELATION TO THE LIGONIEL TRUE BLUES LOYAL ORANGE LODGE No 1932 PARADE NOTIFIED TO TAKE PLACE IN BELFAST ON SATURDAY, 12 JULY 2014

INTRODUCTION

1. Section 8(1) of the Public Processions (Northern Ireland) Act 1998, provides that:
2.
 - i. "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."
3. The Commission has noted the details provided on the Form 11/1 submitted on 12 June 2014 concerning the Ligoniel True Blues Loyal Orange Lodge No 1932 parade in Belfast on Saturday, 12th July 2014. The Commission has considered the need to issue a determination as outlined above, against the factors described in its Guidelines document.
4. The Commission is conscious of its previous determinations in connection with parades in this area. The Commission, however, 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 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

5. The Commission has received a notification for a parade commencing at 6.30pm on Saturday, 12th July 2014 from North Street to Peters Hill, Shankill Road, Woodvale Road, Crumlin Road, Ligoniel Orange Hall. The notification indicates 120 participants together with one band.
6. The Commission notes that this parade shares part of its route along the Crumlin Road with two other Loyal Order processions at the same, or approximately, the same time.

7. The Commission notes that the purpose of this parade is 'to return to Ligoniel Orange Hall on completion of the celebration for the 324th Anniversary of the 'Battle of the Boyne' by Divine Service and Procession in commemoration of King William III, Prince of Orange who brought civil and religious liberty to all'. It is a parade which has been the subject of controversy over recent years including July 2013 when return parades along this route were subject to a restriction between the junction of Woodvale Parade and Woodvale Road and the junction of Hesketh Road and Crumlin Road.
8. The Commission notes that the parade organiser, the Orange Order, has for the past year had dialogue about parading with representatives of the local community which has concerns about this parade.

JULY 2013 DETERMINATION

9. Whilst the Commission has considered this notification for 12 July 2014 on its own merits, the determination made by the Commission for 12 July 2013 is of relevance to its considerations.
10. Two issues arise from the July 2013 determination. The first is the level of engagement between the parade organiser and those who raise objections to the parade. The second is the degree to which the July 2013 determination has been respected by the parade organiser. These matters are set out clearly in the July 2013 determination, which stated "The Commission sets out the following 'route map' for parades at Ardoyne:
For this year, 2013, the return parades for the three lodges will be restricted from that part of the notified route between the junction of Woodvale Parade and Woodvale Road and the junction of Hesketh Road and Crumlin Road;
 - a) The Commission will facilitate, or support others to facilitate, a sincere and concerted mediation effort between CARA and the Orange Order to reach an agreement on parades notified for this location, both morning and evening. This should start by September 2013 and must be substantive and meaningful so as to help inform the 2014 parading decisions; and
 - b) In the event of the Loyal Orders respecting this determination and in the event of sustained and sincere dialogue, we expect that any future Commission will look favourably upon a notification for a similar evening return parade on the 12 July 2014."
11. The Commission has received evidence about the Church-led talks between the Orange Order and CARA, the parties stipulated by the 2013 determination. On the basis of the evidence from all parties to the talks, the Commission is content to confirm that dialogue has occurred and that it was, in the Commission's opinion, sincere and meaningful, but not

sustained. The Commission understands that the talks were, in an expression used by all parties, 'paused' in April 2014. An additional one-off meeting on 1 June 2014 resulted in no further progress.

12. The Commission recognises that the Orange Order has engaged with both the community and with the Parades Commission. These are significant developments which are reflective of progress in the Orange Order's approach to this parading issue. These achievements need to be built upon. However actions, such as the call by some within the Orange Order to protest against the July 2013 determination, a protest which culminated in violence, undermines the progress delivered elsewhere. Wider communities may be drawn into protesting in support of traditions to which they are sympathetic but not necessarily directly involved. This places on the Orange Order an onerous responsibility to exercise caution.
13. On the issue of whether the parade organiser has respected the July 2013 determination, the Commission refers to the disorder which occurred on 12 July 2013 and for a number of days after. The Commission has also considered the nightly and weekly parades which have been held in protest against the July 2013 determination. The Commission understands that these nightly and weekly protest parades reflect the significance to the Orange Order of a 'return home'. However, the frequency of these protest parades has impacted on community life and community relations in the local area. The Commission has considered the 76 breaches of determinations on the nightly and weekly protest parades, most of which occurred prior to April 2014, after which there has been substantive compliance. This improvement in compliance cannot be deemed to fulfil entirely the conditions laid out in the July 2013 route map.

REPRESENTATION

14. The Commission has considered, within the context of its statutory guidelines, the extensive oral and written representations it has received both in support of, and in opposition to, this parade. These representations include representation on behalf of the Orange Order, community organisations, political representatives, residents' groups, women's groups, and individual members of the public. As the Commission has received comprehensive representations over many months, the evidence set out in this determination is not exhaustive.

COMPETING RIGHTS, DISRUPTION TO THE LIFE OF THE COMMUNITY AND RELATIONSHIPS WITHIN THE COMMUNITY

15. In favour of the parade processing without restriction, the parading organisation and others expressed their right to freedom of assembly and freedom of expression. These rights have been expressed as the right to traverse in six minutes a stretch of road which is an arterial route, and which is a traditional route for this parade. This event has significance for a wider community, which views 12 July as one of the most important events of its annual calendar. The Commission's guidelines recognise the premium attached by many to the concept of tradition and acknowledges this is a factor of some importance. The Commission also recognises that parading behaviour in this area of Belfast has undergone considerable positive change in recent years with improvements in parade marshalling and behaviour of participants.
16. The Commission has also considered the representations in opposition to the proposed parade including concerns that it represents an infringement of the rights of those in the wider local community. The Commission has received evidence that this parade invokes a history and experience of intense fractured inter-community relations. Given the extent of the evidence, the Commission recognises that this parade brings to the fore tensions beyond the actual procession such that arguments about the nature of the procession, the arterial route that it processes and its six minute duration, are outweighed by the symbolic and historic significance of this parade route at an interface area.
17. The Commission has received extensive evidence that this parade and the year-long protest campaign against the July 2013 determination, has placed a further strain on community relations within an area of north Belfast where relations have traditionally been fractured. The Commission has received evidence that these fractured community relations arise from past events which have occurred on this 'contested' stretch of the Crumlin Road and which contribute to the sensitivity of the parading route notified.
18. This parade in recent years has involved a significant policing operation which impacts for many hours upon the life of the community on both sides of the Crumlin Road. The Commission also notes the significant disruption to the life of the community which has resulted from the nightly and weekly parades in the Woodvale area.

PUBLIC DISORDER

19. Evidence of disorder is a factor which the Commission is required under its guidelines to consider. The Commission has reviewed the disorder associated over recent years with this 12 July parade.
20. The 2011 determination stipulated that the parade return at 7pm on 12 July 2011. Within minutes of it passing the shops on the Crumlin Road, serious disorder erupted with bricks, rocks, petrol bombs as well as fireworks being thrown at the police from the nationalist side of the Crumlin Road. Incidents reported included one group of rioters setting fire to a hijacked car at the junction of Crumlin Road and Brompton Park, not far from where a smaller group of loyalists was standing. Twenty four police officers were injured.
21. The 2012 determination stipulated that the parade return at 4pm. Thirty lodge members processed the route. Serious disorder occurred after the parade passed. This disorder occurred in the Brompton Park area. Whilst police Land Rovers, a water cannon and dozens of police officers controlled events in this area, a grouping of several hundred loyalists formed on the other side of the Crumlin Road. This grouping was a notified protest against a republican GARC organised parade of approximately 1800 people. Around 6.30pm of the evening of 12 July 2012, there was a brief standoff between loyalists and republicans. Bricks and bottles were thrown between the two sides. This was separated by the police, who reported on 12 July 2012 that 'Missiles were thrown from both sides as the GARC parade passed the Ardoyne shop fronts but both the parade and the protest dispersed.' The Commission noted reports of gun attacks on police lines. Thirty nine police officers were injured.
22. The 2013 determination stipulated that the parade restrict its route to Woodvale Parade. Parade participants and supporters attempted to process the restricted part of the route, but were prevented by the police from breaching the determination. Serious violence ensued with up to 5,000 supporters of the parade descending on the Woodvale area. The violence continued for several days in the Woodvale area, and spread to other parts of the city with police coming under blast bomb and petrol bomb attack in two different parts of Belfast. Other violent incidents included a blast bomb attack believed to have been carried out by republicans in the Brompton Park area. Seventy one police officers were injured.
23. The Commission's duty is to promote the rights of peaceful assembly and freedom of expression which are important rights to be enjoyed by all. Some representatives have urged

the Commission to make value judgements about which side of the community has caused the greater public disorder in respect of this parade and its related protests. The claim is that, historically, 'one side' is more responsible for causing public disorder than the 'other side'. The Commission is not, under its legislative framework, required to judge who has been more responsible for acts of public disorder and violence, and indeed contends that even if it were necessary, it would not be possible to do so. Within its duty to reach a decision as to whether it is necessary to impose restrictions, the Commission recognises that public disorder has for many years been a characteristic of parading and parade related protests in the Crumlin Road area, a fact which points to an increased potential for public disorder arising in respect of any future parades and parade related protests.

DECISION

24. In considering all of the evidence received, including the determination and route map for the previous year, the Commission has concluded that the level of disruption to the life of the community, the impact of the parade upon community relations, and the potential for public disorder would be disproportionate to the significance of this procession processing the entirety of the notified route. Accordingly the Commission determines that, subject to restrictions noted in the body of the determination, the parade notified for 12th July 2014 may not process the full length of its notified route.

RESOLUTION

25. The Commission urges all parties to this parading dispute to continue dialogue in pursuit of a resolution and confirms its commitment to encouraging dialogue in the weeks and months to come. The Commission expands upon its encouragement with some observations that dialogue around parading needs to be supported by additional measures which address other deep seated issues impacting upon parading. These additional measures, which are not intended to be prescriptive, are suggested in the paragraphs below.
26. The deep seated issues impacting upon parading on the Crumlin Road are complex issues of culture, the past and identity. Based on the evidence of individuals and groups from these areas, it is the view of the Commission that these wider issues influencing attitudes to parading need to be addressed by a structured, managed, cohesive approach which provides a framework into which whole communities can contribute, have their voice heard and formulate creative responses. As stated in the Commission's guidelines, what is important is that any structures must have the confidence and endorsement of those most closely impacted by the issues.

27. In particular, the Commission in its visits to the Woodvale area heard the views of a community which is anxious to express its perceptions and experiences. In the Commission's opinion, the community is open to discussing their views and frustrations, and indeed having them challenged, but finds no structured forum in which to do so. The Commission noted that some of the local Churches make attempts to fill this vacuum, but these efforts are by their very nature piecemeal and under-resourced. In this respect, the Commission's visits to the Woodvale area, facilitated by a local Church, highlighted the appetite within a community for discussion, reflection and a desire to be understood. In respect of other individuals and groups engaged in the Crumlin Road parading dispute, the Commission observed that their contribution is largely voluntary, reactive and unstructured. The Commission's view is that this approach is insufficient to address the societal, historic and political issues impacting upon this parade.
28. The Commission concludes that the issue of parading along the Crumlin Road has profound implications for communities coming out of conflict and requires resources and structures commensurate to the task. The Commission's view is that these resources and structures are presently absent.
29. The structures and resources, which the Commission highlights as absent in the paragraphs above, are not within the capacity for the Commission to provide. Nevertheless, the Commission considers that they are fundamental. The Commission refers to Section 2 (2) (a) of the Public Processions Act (Northern Ireland) 1998 which states it may "take such other steps as appear to the Commission to be appropriate for resolving disputes." The Commission is willing to play a role in establishing a wider process that is charged with tackling the outworkings of this parade. However, by necessity, the Commission's involvement, must be sufficiently distant to retain the independence required to discharge its statutory duties of adjudication and decision making.
30. The above observations do not dilute the parade organiser's responsibility to enter and sustain dialogue with those parties which have genuine concerns in relation to parades. The Commission goes further and suggests that there is a responsibility upon the Orange Order to examine in depth an approach which does not compromise its longstanding values, but which identifies a less strict adherence to tradition in this particularly difficult parading area of the Crumlin Road. Whilst the obligation is one to be borne by the parade organiser, those opposed to the parade must recognise that objections need to be genuine, relevant and have a reasonable prospect of being addressed by the parade organiser.

31. The Commission considers that it is within its remit to make the above observations by virtue of its statutory duty to encourage the resolution of parades. The Commission remains committed to discharging its statutory functions and will continue to promote and facilitate mediation between parties to resolve the contentious issue of parading in the Crumlin Road area.

LEGAL FRAMEWORK

32. 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.
33. 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.
34. 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.
35. 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.
36. 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.

37. The Commission has had regard to the nature of this parade, the purpose of which is described earlier in the determination.

DETERMINATION

The Parades Commission's determination is that the following conditions are placed on the organiser, participants and supporters in the parade by Ligoniel True Blues Loyal Orange Lodge No 1932 on Saturday, 12 July 2014.

- A. On the notified return the parade shall not process that part of the notified route between the junction of Woodvale Parade and Woodvale Road and the junction of Hesketh Road and Crumlin Road.**
- B. The parade shall disperse no later than 7.30 pm.**
- C. Only the bands notified shall participate in the parade.**
- D. When the parade is in progress there shall be no undue stoppages or delays.**
- E. The parade organisers shall ensure that the band leaders and all band members are given written details of the restrictions listed above in accordance with section 2.3 of the Code of Conduct.**
- F. 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.**
- G. As shown at Appendix B of the Code of Conduct, the Commission re-affirms that all participants in 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.**
- 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 arrange for the presence of an adequate number of stewards to ensure that all parade participants act in an orderly manner.**
- J. The parade organisers shall ensure that all stewards and participants obey any direction given by the police in relation to this parade.**
- K. The parade organisers shall ensure that these conditions are drawn to the attention of all participants and supporters.**

Signed:*Ane Henderson*.....
(On behalf of the Commission)

Date:*3/7/14.*.....

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 organisers 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 organiser 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 organisation.

G Flags etc.

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