

Public Processions and **Related Protest Meetings**



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Guidelines

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Guidelines

1. Introduction

1.1 These Guidelines are produced in compliance with Section 5 of the Public Processions (Northern Ireland) Act 1998 as amended. This requires the Parades Commission to issue Guidelines as to the exercise of its functions under Sections 8 and 9A which empower the Commission to subject a public procession or related protest meeting to such conditions as the Commission considers necessary. Sections 8 and 9A also oblige the Commission to have regard to the Guidelines in considering any particular case:

- whether to subject a public procession or related protest meeting to conditions;
- whether to amend or revoke conditions which have been imposed;
- what conditions should be imposed.

For the purposes of these Guidelines, the expression “related protest meeting” refers to protest meetings as defined in Section 17(1) of the Act.

- 1.2 A Code of Conduct and Procedural Rules, which have also been produced under the Act, are to be read in conjunction with this document.
- 1.3 These Guidelines provide a framework intended to govern the decisions of the Commission and are vital in understanding how the Commission operates. They do not represent a prescriptive framework to be applied rigidly to every situation, but they will help ensure that the issues are considered in a wider and longer term framework. They represent a central plank in the Commission’s approach to achieving the ultimate goal of reaching a situation in which public processions or related protest meetings can take place without conflict. While the Guidelines are



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designed to promote consistency in decision making, they are not intended to do so at the expense of the flexibility and discretion which must be applied to the facts and circumstances peculiar to individual cases.

- 1.4 The Guidelines are based on the fundamental premise that the rights to peaceful assembly and freedom of expression as outlined in the European Convention on Human Rights are important rights to be enjoyed equally by all. The Commission will not therefore seek to raise obstacles to the exercise of these rights unless there are compelling arguments to do so; arguments, for example, about the extent to which the exercise of those rights infringes upon the rights of others. The Guidelines are therefore designed to provide the Commission with a means of testing the validity of those counter arguments. In effect, they will provide a basis for establishing what is fair, just and reasonable in relation to any contentious public procession.
- 1.5 The right of peaceful assembly, underpinned by the European Convention on Human Rights and the United Nations International Covenant on Civil and Political Rights, while important, is not absolute. It is subject to limitations which are to be found both in the international documents and in the general law to protect the rights and freedoms of others or for the prevention of disorder or crime. The North Report, from which the creation of the Parades Commission arose, recommended that the following principles should underpin the community's future approach to public processions and related protest meetings:
 - a) the right to peaceful free assembly should (subject to certain qualifications) be protected;
 - b) the exercise of that right brings with it certain responsibilities; in particular, those seeking to exercise that right should take account of the likely effect on their relationships with other parts of the community and be prepared to temper their approach accordingly;
 - c) all those involved should work towards resolution of difficulties through local accommodation;



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- d) in the exercise of their rights and responsibilities, those involved must not condone criminal acts or offensive behaviour;
- e) the legislation and its application must comply with the Government's obligations under international law, and provide no encouragement for those who seek to promote disorder;
- f) the structure for, and process of, adjudication for disputes over individual public processions should be clear and applied consistently with as much openness as possible;
- g) any procedures for handling disputes over public processions or related protests and the enforcement of subsequent decisions should be proportional to the issues at stake.

In considering whether to subject a public procession or related protest meeting to conditions and, if so, what conditions, the Commission will have regard to these principles.

1.6 Section 8(1) of the Public Processions (Northern Ireland) Act 1998 empowers the Commission to impose conditions on public processions. By virtue of subsections (5) and (6), the Commission is obliged to have regard to:

- a) the Guidelines;
- b) any public disorder or damage to property which may result from the procession;
- c) any disruption to the life of the community which the procession may cause;
- d) any impact which the procession may have on relationships within the community;
- e) any failure to comply with the Code of Conduct;
- f) the desirability of allowing a procession customarily held along a particular route to be held along that route.



1.7 Section 9A of the Public Processions (Northern Ireland) Act 1998 as amended empowers the Commission to impose conditions on related protest meetings. By virtue of subsections (5) and (6), the Commission is obliged to have regard to:

- a) the Guidelines;
- b) any public disorder or damage to property which may result from the protest meeting;
- c) any disruption to the life of the community which the protest meeting may cause;
- d) any impact which the protest meeting may have on relationships within the community;
- e) any failure to comply with the Code of Conduct.

The Court of Appeal has confirmed that the Commission is also entitled to take into account other relevant factors.

2. Public Disorder or Damage to Property which may result from the Public Procession or Related Protest Meeting

Past experience has shown how decisions about contentious processions or related protest meetings can provoke disorder. The Commission is obliged by the Act to have regard to any potential public disorder or damage to property. In doing so, it will seek and consider advice from the PSNI.

3. Disruption to the life of the Community

3.1 All processions, no matter how small, cause some disruption, if only by temporarily curtailing the flow of traffic. That is an inevitable feature of processions and, in some circumstances related protest meetings, which is not, by itself, sufficient to require that people should be constrained from exercising the fundamental human right of freedom of assembly. The question the Commission must therefore address is whether the level of disruption caused by the exercise of the right to assembly is disproportionate to the significance of the



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procession or related protest meeting to those participating, or to the community they claim to represent. In gauging disruption, the Commission will take care to distinguish between disruption caused by the procession or disruption caused by any protest activity or police action taken in response to that activity.

- 3.2 The factors taken into account will include the degree of:
- restriction of freedom of movement by local residents;
 - restriction of normal commercial activity;
 - restriction of access to public amenities such as hospitals;
 - restriction of access to places of worship; and
 - the duration of the procession or related protest meeting.

4. Impact of the Public Procession or Related Protest Meeting on Relationships within the Community

- 4.1 As the past has shown, there is huge potential for unresolved disputes over processions to create major and lasting rifts in relationships between communities in Northern Ireland. Often these disputes are symptoms of more deeply rooted conflict but they can provoke a violent response which only serves to tear communities further apart. In assessing the impact, if any, which a proposed public procession or related protest meeting may have on relationships within the community, the Commission will have regard to the following principal factors:
- 4.2 **Location and Route.** Where residents and organisers of public processions are in conflict over proposals for public processions to pass through individual areas, the Commission will take account of the:
- extent to which contested parts of the route comprise mainly residential or commercial property;



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- demographic balance among the residents in the immediate area surrounding any contested parts of the route, or location of the related protest meeting;
- presence of sites such as monuments or churches of other traditions or other sites associated with past events which give rise to sensitivity within the community;
- purpose of the public procession and whether the route is necessary or proportional to that availability of alternative routes or locations which are not controversial.

4.3 In the case of related protest meetings the Commission will take into account:

- whether the size and location of the related protest meeting is necessary or proportional to the purpose of the protest;
- the availability of an alternative location for the related protest meeting.

4.4 **Type and Frequency of Public Processions and Related Protest Meetings.** The Commission recognises as a general principle that residents along the route of a public procession, or in the vicinity of a related protest meeting, have the reasonable expectation not to feel fear or a sense of intimidation because a public procession or related protest meeting is planned. Again, past events in the area will have a bearing on local sensitivities. In attempting to measure fear or the sense of intimidation, the Commission will take account of the:

- notified purpose of the public procession or related protest meeting;
- numbers notified to take part;
- past experience of the manner in which previous public processions or related protest meetings have been conducted;
- regalia associated with the public procession or any related protest meeting;
- nature and number of bands notified to participate and the type of music it is reasonably anticipated will be played;
- frequency of such public processions or related protest meetings along the route;



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- the likelihood of supporters accompanying the public procession, and past behaviour of supporters.

4.5 Communication with the Local Community. The Commission will also take into account any communications between public procession or related protest meeting organisers and the local community, or the absence thereof, and will assess the measures, if any, offered or taken by organisers to address genuinely held relevant concerns of members of the local community. The Commission will also consider the stance and attitudes of local community members and representatives. It is important for organisers of related protest meetings in areas with a mixed community to ensure that every effort is made to communicate with all parts of that community.

4.6 The Broader Context. There are other important considerations in gauging the impact of public processions or related protest meetings on relationships within the community. In some areas there has been a long history of inter-community strife, much of which precedes any contention about public processions and has its roots in the longer term conflict which has taken place across Northern Ireland. The Commission will have particular regard to any history of conflict associated with a given public procession or related protest meeting, including advice from the PSNI, in considering the potential impact which a proposed public procession or related protest meeting may have on relationships within both the immediate community and the wider Northern Ireland community.

5. Compliance with the Code of Conduct

5.1 The Code of Conduct represents a checklist to be used by organisers of public processions and related protest meetings to ensure that the minimum of disruption or offence is caused by the proposed event. In particular, it emphasises the importance that the Commission attaches to the need for public procession and related protest meeting organisers to take steps to address the concerns which



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residents may have about the planned event, as well as how participants in both public processions and related protest meetings should behave on the day. It emphasises the Commission's preference for conflicts over public processions to be resolved through communication between those in dispute.

- 5.2 The Code spans a wide spectrum and, in assessing compliance with it, the Commission will expect to see evidence from organisers of the steps they have taken to meet its requirements, as well as evidence from residents and others to support any allegation of infringement. The Commission, in considering whether to subject a proposed public procession or related protest meeting to conditions and the type of conditions which might be imposed, will take account of the extent to which public procession or related protest meeting organisers have complied with the Code in preparation for the public procession or related protest meeting. It will also take into account the extent to which the participants in the public procession and related protest meetings complied with the Code in respect of previous public processions or related protest meetings.

6. The Desirability of allowing a Public Procession which has been customarily held on that Route to continue to be allowed to do so

- 6.1 The Commission recognises the premium attached by many to the concept of tradition in relation to public processions and acknowledges this as a factor of some importance. In its deliberations, the Commission will take into account the extent to which the proposed route is long-standing and weigh this important factor along with all other material factors in reaching conclusions.



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