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**DETERMINATION MADE IN RELATION TO THE No 1 DISTRICT LOYAL ORANGE LODGE PARADE NOTIFIED TO TAKE PLACE IN BELFAST ON SUNDAY, 28 SEPTEMBER 2014**

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**INTRODUCTION**

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1. Section 8(1) of the Public Processions (Northern Ireland) Act 1998, provides that:
  - 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."
2. The Commission has noted the details provided on the notification on the Form 11/1 submitted on 29 August 2014 concerning the No 1 District Loyal Orange Lodge parade in Belfast on Sunday, 28 September 2014. The Commission has considered the need to issue a determination as outlined above, against the factors described in its Guidelines document.
3. 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**

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4. The Commission has received a notification for a parade at 2.00pm on Sunday, 28 September 2014 from Shankhill Road via Woodvale Road, Crumlin Road to Ligoniel Orange Hall. The notification indicates an anticipated number of participants of 350 together with three bands.
5. The Commission notes that the purpose of this parade is "To Attend An Open Air Religious Thanksgiving Service For The Ulster Covenant".

**What the Commission has considered**

6. The Commission has considered this parade notification for 28 September 2014 within the particular circumstances and facts pertaining to the notified route which includes a highly

contested stretch of the Crumlin Road at the interface between nationalist Ardoyne and loyalist Woodvale/Shankill in North Belfast. Circumstances include the wider political attitudes and views attaching to parades in this area, the community relations environment, the parading history of the notified route, and the Commission's own body of decisions, including the rationale for them. The purpose of the notified parade is also considered. The competing rights brought into play by parading in this area are examined.

### **What this determination is intended to explain**

7. This determination is intended to provide an overview of the complex environment into which this notice to parade on 28 September is received, and also more detailed information about the logistics and frequency of parades in the area, the rationale for placing restrictions on them, and compliance with these restrictions. The requirement for dialogue and local resolution is highlighted. The intention is to inform and provide clarity about parading on the Crumlin Road interface.

### **Wider issues and community relations**

8. Wider political attitudes and opinions attaching to parades notified for this area focus on the critical but limited issue of the route restrictions on the 2013 and 2014 Twelfth of July return parades. Attitudes are split between those who believe a parade in the Crumlin Road area should be allowed to process and those who believe that it should not. In information and evidence provided to the Commission, these attitudes and views commonly divide along religious and political lines, and are often arrived at from a broad cultural, religious and political experience which may have little direct relevance to the divided territorial landscape at this urban interface. This area has a deeply distinctive history and experience of parading. The communities here have formed their own complex responses to parading and other issues which are not well understood by the wider public.
9. Inter-community division endures from the Troubles though to the Holy Cross dispute into parades, protests and a camp.
10. The community relations environment in this area of North Belfast is characterised by a decades-long history of inter-community strife, and is strained too by more recent inter-community division arising from the Holy Cross dispute in 2001/02, and from events of parade related rioting and public disorder.
11. Weekly and nightly protest parades over the last thirteen months has created a new dynamic as has the Twaddell Avenue camp which was set up in 2013 as a protest against Commission

decisions. The Commission has no jurisdiction regarding this camp. It has been suggested to the Commission that its adjudication decisions are responsible for the camp's existence, and that other decisions may result in its disbandment. It must be stated that the camp's only relevance to the Commission's statutory considerations is its impact upon community relations, which, in all the evidence and information provided, appears to heighten tensions. Whilst camp supporters view it as a legitimate form of protest against an erosion of their civil liberties, it is viewed by a wider community as a provocative attempt to agitate and disrupt. It arguably undermines efforts to resolve the parading dispute.

### **Impact of the Protest Parades**

12. From about twenty five to forty people take part in protest parades in the Woodvale area five nights each week and every Saturday. There are exceptional turnouts in the hundreds. This pattern has occurred since July 2013. These parades usually disperse quickly in the evenings but on Saturdays when there are speeches, they disperse more slowly. All of them involve a significant policing operation. The parades cause a sustained year round disruption to community life in the Woodvale area, and at the interface roundabout at the Twaddell Avenue/Crumlin Road junction. The Commission places music and time restrictions on the evening parades which notify as their stoppage point Twaddell Avenue. The Saturday parades which notify to proceed along the Crumlin Road have route restrictions placed on them at Woodvale Parade, the original point of stoppage on 12 July 2013. Other restrictions on Saturday parades refer to time and conduct.
13. When they first commenced, there was little marshalling of the parades, and a high incidence of breaches of Commission determinations, but they can now be said to be well marshalled and largely compliant with Commission restrictions placed on them. To this extent, the objective of 'peaceful protest and opposition to the denial of our civil right to complete the 12<sup>th</sup> July 2013 parade' as stated in the notices to the Commission may be said to be fulfilled. Objections to these parades continue to be made on the grounds of disruption to community life, and the negative impact on community relations. The parades are also portrayed to the Commission as a threat to a sensitive interface area.
14. The Commission's view is that these parades, whilst well supported and marshalled, do not progress the organiser's ultimate objective as they increase community tensions in the area making resolution of parading disputes more difficult.

## **Annual Parades**

15. There are currently five morning/outward parades of the loyalist/unionist tradition. These are 'feeder parades' which are held in their local area prior to heading off to a major event at another destination. They are established over a long number of years, and can be said to have an element of traditionality. Longstanding restrictions imposed by the Commission regarding embedding supporters within the body of the parade, also other restrictions regarding music and behaviour, have largely been complied with, and this compliance, in tandem with improvements in the behaviours of bands and improved marshalling, has resulted in an uneasy but wavering tolerance by objectors to these parades. Notified protests are held against them.
16. The community which protests has made repeated calls for dialogue in respect of them, and makes representation too to the Commission about their suspicions about the necessity for parades which are ultimately destined for a venue elsewhere. The Commission finds that the nationalist/republican community has little comprehension of the cultural significance of 'feeder parades' and that little effort has been made to explain their significance. The tense atmosphere at these morning parades may be understood by reference to the significant policing operations they entail.
17. There is a more fractured history in respect of return/evening parades which have been associated with serious disorder and violence. The most recent parade took place on 12 July 2012 when three local lodges of the Orange Order processed the route. This was time-restricted by the Commission to 4pm as opposed to later in the evening, and was processed by 30 members only. Serious violence ensued in the Republican area of Ardoyne. In the subsequent year, 2013, the route contested was not processed but was restricted to Woodvale Parade. Serious violence again ensued but this time in the loyalist area of Woodvale. This same restriction was applied in 2014. This parade was lawful with protests held by peaceful means, including a six minute stoppage at the main Twelfth event. In sum, there has been no return parade along this stretch of the Crumlin Road since July 2012.

## **Competing rights**

18. Adjudication on parades in the Crumlin Road area is made within the context of competing rights, competing views. Those who would wish to parade are in competition with those who object to these parades. The sense of competing rights around parading in North Belfast is acute.

19. The heartfelt significance of an Orange Order parade for the loyalist/unionist community in this part of North Belfast is profound with representation made to the Commission about its cultural and traditional importance, and reference made too to the sacrifices this community has made. These sacrifices appear to be bound up with the significance of the right to parade. Any restriction on this freedom of assembly has been portrayed to the Commission as another loss of British identity, another loss of a community's sense of itself.
20. There is an equal and opposite view taken of these parades by the community which lives on the other side of the interface believing to varying degrees that they are unnecessary, offensive, divisive and in some cases sectarian. There are those within this community who are prepared to tolerate these parades on the basis that there is local accommodation made around them. There are others who are entirely opposed to any parades of this sort on this stretch of the Crumlin Road.
21. The Commission holds that these competing views by different sections of the community on both sides are by and large genuinely held. The question then arises as to how the Commission weighs up these views in adjudication. The Commission makes this judgement by reference to the responsibilities of a parade organiser to address the genuinely held views of those who would object and protest. It is the parade organiser who, with rights to free assembly, bears the responsibility of dealing with the issues which his parade brings into contention. In this case, for notified parades at this interface area, the issues which are brought into contention are community division, community tension, legacy issues of the Troubles, and historic issues of conflict and violence at this interface.
22. Dialogue aimed at finding some common ground about these divisive parades has occurred sporadically over the years, and has at times met with a degree of success and co-operation, but at others, has faltered under the sheer weight of emotions and expectations attaching to parades on the Crumlin Road. These emotions were expressed again in July 2013 when the return route was restricted, but were in the early months of 2014 met with a constructive response on the part of both the Orange Order and the wider communities which sought to achieve resolution through Church led talks. These failed to reach a resolution, and the situation remains in stalemate.

### **Local engagement**

23. In its determinations for the 12 July 2014 return parades, the Commission stated that parading issues are difficult to resolve in isolation of measures to address issues of culture, the past and identity. The Commission did not prescribe what these measures might be, but stated its view that any measures must have the confidence and endorsement of local communities. The

Commission stated then as now that any approach to addressing wider issues does not preclude parade organisers from engaging with the community objecting to their parades, but is in fact dependent for success upon such engagement. The Commission has returned consistently to the requirement for all parties to the parading dispute to resolve these difficulties at a local level.

24. In respect of this notice to parade on 28 September, the Commission understands that the parade organiser has not made contact with the community which raises objections to this parade, and has therefore made no effort to address the concerns of those opposed to the parade.

### **Representation**

25. The Commission received no representation in support of this notice to parade on 28 September 2014, but political and other representation in respect of parades for 12 July 2014 on this same route may be relevant. This representation focused on this part of the Crumlin Road as an arterial route which should be a shared space for all. This contention that the route is partly commercial was further supported by the claim that it takes only six minutes to process, a point which was reinforced on 12 July by six minute protest stoppages during the main Twelfth celebrations.
26. The Commission was open to these arguments regarding arterial route and time to process, and considered them in some depth as their relevance was obvious. The Commission found that these matters which were offered as statements of fact were limited by a reduction of the parading dispute to a simplistic matter which ignores the interface nature of the route, and the hinterland of divided communities which live behind it. It also ignores the historic challenges of parading in the area, and the traumatic past events occurring along this stretch of road. What the Commission heard in great measure was how highly sensitised all parties are in their responses to events along the Crumlin Road including parading events which cause tension and suspicion. It is the Commission's view that the portrayal of a six minute parade along a commercial arterial route is an overly simplistic representation of the reality of a parade in this area.

### **Parade notification for 28 September 2014**

27. The purpose of this parade on 28 September is stated by the organiser as 'To attend an open air religious Thanksgiving Service for the Ulster Covenant.' This purpose and the related route are considered within the Commission's statutory guidelines which have regard to whether the notified route is necessary or proportional to the notified purpose. Whilst the Commission fully

understands that the commemorative service in respect of the signing of the Covenant is of high significance to the Orange Order and other sections of the Protestant community, it finds that this purpose could readily be satisfied by choosing an alternative route or location which is not controversial.

28. The Commission has considered this parade and concluded that this notice for an additional parade at this interface area increases division and mistrust between the communities, and is damaging to community relations. The Commission finds too that the stated purpose of the parade does not justify the chosen route. On the balance of competing rights, the Commission finds that this parade represents an infringement of another community's rights. The Commission therefore places a route and other restrictions on the notified parade. The Commission holds that the determination it now makes is just, fair and proportionate.

## **CONSIDERATION**

29. 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.
30. 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.
31. 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.
32. 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.

33. 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.
34. 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.
35. In making its determination, the Commission has accepted that there is a right of lawful and peaceful protest vested in those who legitimately object to the notified parade. However, there is neither right nor justification for unlawful or violent protest. The Commission further considers that, in all the circumstances, there is an obligation on representatives and local community and political leaders to use their good offices and/or take reasonable steps as appropriate to prevent violent and/or unlawful protest. This will be to the positive advantage of the local population, as it will reduce the risk of any possible impairment of their rights and freedoms stemming from such protests.
36. The Commission has had regard to the nature of this parade, the purpose of which is described earlier in the determination.



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## DETERMINATION

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The Parades Commission's determination is that the following conditions are placed on the organiser, participants and supporters in the parade by No 1 District Loyal Orange Lodge (LOL) on Sunday, 28 September 2014.

- A. On the outward parade, No 1 District LOL and the accompanying bands and supporters 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 16.00 hrs.
- 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 all participants including any marshalls, band leaders and 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: ..... *18/9/14* .....

## **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.