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**DETERMINATION MADE IN RELATION TO THE CITY OF BELFAST LOYAL ORANGE WIDOWS FUND PARADE NOTIFIED TO TAKE PLACE IN BELFAST ON SUNDAY 30 APRIL 2017**

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**INTRODUCTION**

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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 20 March 2017 concerning the City of Belfast Loyal Orange Widows Fund parade in Belfast on Sunday 30 April 2017. 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 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 notified purpose is "*To attend the public worship of God and give thanks for the work of the Fund.*"
5. The notified outward route is "*Florence Place (DLOL 1), Crumlin Road, Hopewell Avenue (DLOL 3), Fleetwood Street (DLOL 2), Carlisle Circus, Denmark Street (DLOL 4, 7/8 & 9), Clifton Street, Donegall Street, Royal Avenue, Donegall Place, Donegall Square North, Donegall Square West (Left of Centre Footpath), Bedford Street, Dublin Road, Shaftsbury Square and Donegall Pass.*" The notified return route is "*Donegall Pass, Shaftsbury Square, Great Victoria Street, Bruce Street, Dublin Road, Bedford Street, Donegall Square West (Right of Centre Footpath), Donegall Square North, Donegall Place, Royal Avenue, Donegall Street, Clifton Street, Carlisle*

*Circus, Crumlin Road, Florence Place (DLOL 1), Hopewell Avenue (DLOL 3), Fleetwood Street (DLOL 2) and Denmark Street (DLOL 4, 7/8 & 9)."*

6. The number of participants notified is 800, including 1 band. The notified number of supporters is unknown.
7. The outward parade is notified to commence from Carlisle Circus Area at 2.15pm and to arrive at Donegall Pass at 3.15pm for a service in St Mary Magdelane Parish Church at 3.30pm. The return parade is notified to commence from Donegall Pass at 4.45pm and to disperse from Carlisle Circus Area at 6.00pm.
8. The contentious stretch of the notified route is at Clifton Street/Donegall Street. The sensitivities at this location have been fully documented in previous Commission determinations. For the purposes of this determination, the Commission has not restated all relevant information or repeated its considerations. However, it refers interested parties to the relevant determinations which are accessible on its website.
9. The Commission has had regard to its statutory Guidelines in its considerations of the parade's potential for public disorder and the potential impacts upon community relations and community life. The Commission has fully considered all relevant human rights aspects.
10. The Commission has determined that a single drumbeat is the appropriate condition for this parade over the stretch of route from the Union Street junction with Donegall Street to the Westlink junction with Clifton Street.
11. The Commission has determined that these conditions are necessary, proportionate and fair in respect of this parade.

## **CONSIDERATION**

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12. 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.
13. 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.

14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. The Commission has had regard to the nature of this parade, the purpose of which is described earlier in the determination.

20. Having considered all the evidence and information available to it, the Commission finds that it necessary to place conditions on the parade. This decision is set against the background of continuing local community tension. 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.
21. 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.
22. 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.

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## DETERMINATION

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The Parades Commission's determination is that the following conditions are placed on the organisers and participants in the parade by the City of Belfast Loyal Orange Widows Fund in Belfast on Sunday 30 April 2017.

- A. Only a single drumbeat, on a single side drum, shall be played on that part of the notified route between the junction of the Westlink and Clifton Street (the junction closest to Stanhope Street which is the first junction processing upwards towards Carlisle Circus) and the junction of Union Street and Donegall Street.
- B. No supporters shall accompany the parade between the junction of the Westlink and Clifton Street (the second junction processing upwards towards Carlisle Circus) and the junction of Union Street and Donegall Street.
- C. The parade organiser shall ensure that the parade begins and disperses promptly.
- D. Only the band notified on the Form 11/1 shall participate in the parade.
- E. The parade organisers shall ensure that all participants including any marshals, band leaders and band members are given written details of the restrictions.
- F. The organisers and all participants in the parade shall comply with the conditions set out in 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.

Signed: .....*Ale Henderson*.....

(On behalf of the Commission)

Date: .....*12/4/17*.....

## **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.

