
**DETERMINATION MADE IN RELATION TO THE PORTADOWN DISTRICT LOL NO 1 PARADE
NOTIFIED TO TAKE PLACE IN PORTADOWN ON SUNDAY 7 JULY 2019**

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 or on any persons supporting it such conditions as the Commission considers necessary.”
2. The Commission has noted the details provided on the Form 11/1 submitted on 5 June 2019 concerning the Portadown District LOL No 1 parade in Portadown on Sunday 7 July 2019. The Commission has considered whether a determination under section 8 should be made in respect of this parade.
3. In considering whether to exercise its power under Section 8, the Commission has taken into account its previous determinations in relation to this parade. It has also considered all other aspects of the parade notified by the organisers, including its nature and purpose, and has considered all other information received in relation to it. The Commission has concluded that, in the particular circumstances, it should exercise its power under Section 8 to make a determination in the terms outlined in the following paragraphs.

BACKGROUND

4. The notified purpose is '*Annual Parade and Church Service to Drumcree Church of Ireland.*'
5. The notified outward route is '*Carleton Street; Church Street; Market Street; High Street; Woodhouse Street; Obins Street; Charles Street; Brankin's Hill; Dungannon Road; Rector's Turns; Drumcree Road.*' The notified return route is '*Drumcree Road; Garvaghy Road; Parkmount; Victoria Terrace; Castle Street; Bridge Street; High Street; Market Street; Church Street; Carleton Street.*'
6. The number of participants is notified as 'not known'. There are 2 bands notified. The number of supporters is also notified as 'unknown'. The reported number of participants in 2018 was 200, including 2 bands.
7. The parade is notified to commence from Carleton Street Orange Hall at 10.15am to arrive at Drumcree Church of Ireland at 11.15am. The return parade is notified to commence from

Drumcree Church of Ireland at 1.00pm and disperse from Carleton Street Orange Hall at 2.30pm.

8. The 'Drumcree' parading dispute has been well documented, including in the Commission's previous determinations available on its website.
9. Portadown District LOL No 1 holds a protest parade each Sunday as part of its campaign for a return parade along the Garvaghy Road in Portadown. Up to about 20 people attend the weekly protest parades.
10. The Commission has received objections to the parade on 7 July. These objections include the potential for heightened community tensions due to the parading dispute.
11. The parties to the dispute have not agreed to a dialogue process. The Garvaghy Road Residents Coalition have stated that dialogue, if any, should be about the Orange Order arch at Parkmount, the Parkmount Junior parade, and the location of an 11th night bonfire. The District has insisted that these issues are not within its remit, and that its focus is on the District's notified parade along the Garvaghy Road.
12. The Commission has considered the notified parade against the Commission's statutory guidelines regarding the protections for peaceful assembly as balanced with the potential impacts of the parade on community relations, community life and the potential for public disorder.
13. The Commission has concluded that a restriction on the route remains necessary, proportionate and fair in respect of this parade. This decision reflects the potential impacts on community relations in the immediate vicinity of Portadown, and across Northern Ireland.
14. The Commission continues to encourage all parties to this parading dispute to enter into dialogue to achieve an accommodation which reflects the needs of the local communities. As is set out in the Commission's statutory rules, it is a fundamental principle that any structures established must have the confidence and endorsement of those most closely concerned.

LEGAL CONSIDERATIONS

15. The Commission has had regard to the Guidelines issued under Section 5 of the Public Processions (Northern Ireland) Act 1998 ("the Guidelines"). The Commission has also been alert to its duties as a public authority under Section 6 of the Human Rights Act 1998. 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 these rights is absolute.
16. 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. Again, none of these rights is absolute. The Commission has also been mindful of the provisions of Article 17 and its obligations under Article 2 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 has therefore undertaken a balancing exercise, consistent with its statutory Guidelines, to make a determination that is fair and proportionate in all the circumstances.
18. As required by the statutory Guidelines, the Commission has had regard to the seven North principles. One of the seven fundamental principles identified by the North Report is that all those involved should work towards the resolution of difficulties through local accommodation.
19. As stated in paragraph 4.5 of the Guidelines, the Commission takes into account any communications between parade organisers and the local community or the absence thereof and will assess the measures, if any, offered or taken by parade organisers to address genuinely held relevant concerns of members of the local community.
20. Having considered all the evidence, information and advice available to it, the Commission has determined that conditions should be placed on the parade. In imposing these conditions, the Commission pursues the legitimate aims laid down in 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. The conditions are not such as to affect significantly the individual's right to assemble.

21. 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 and strike a fair balance between the needs of the community and the rights of the individual. The legal, factual and human rights issues are of considerable complexity and require, ultimately, the formation of a carefully considered and finely balanced judgement on the part of the Commission.

DETERMINATION

The Parades Commission's determination is that the following conditions are placed on the organiser and participants in the parade by Portadown District LOL No 1 in Portadown on Sunday 7 July 2019.

- A. In respect of the outward route, the parade is prohibited from entering that part of the notified route between the junction of High Street and Woodhouse Street and the junction of Obins Street and Charles Street, or any part of that route. The parade shall process from its point of departure at Carleton Street into Church Street, Market Street and High Street to the junction of Castle Street, turning back along High Street and Market Street, before turning into West Street. From West Street it shall turn into Northway and join the Corcrain Road. It shall then process along the Corcrain Road into Charles Street, along Charles Street to the Dungannon Road/Moy Road Roundabout, along the Dungannon Road to the Rectors Turn, Drumcree Church. In respect of the return route, the parade is prohibited from proceeding beyond Drumcree Parish Church, Drumcree Road, and from entering that part of the route which includes any part of the Garvaghy Road, including Parkmount and Victoria Terrace.**
- B. The return parade shall retrace the outward route as detailed above or, alternatively, parade participants shall disperse no later than 2.30pm from Drumcree Parish Church.**
- C. All participants in, and supporters of, this parade must abide by the appropriate conditions of the Code of Conduct; and comply with police directions and act in accordance with legislation.**
- D. The Commission further re-affirms the importance of respectful behaviour in the vicinity of interface areas.**
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- E. The organiser and all participants in the parade shall comply with the conditions set out at Appendices A and B to the Commission's Code of Conduct. For ease of reference, these are reproduced below.**
- F. The parade organiser shall ensure that the parade begins and disperses promptly.**
- G. Only those bands notified on the Form 11/1 may participate in the parade.**
- H. When the parade is in progress there shall be no undue stoppages or delays. Where practicable the parade shall stay close to the near side of the road at all times to minimise disruption and to facilitate the passing of vehicular and other traffic.**
- I. The organiser 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 organiser shall bring to the attention of stewards the guidance for parade participants contained in Appendices A and B of the Commission's Code of Conduct.**
- K. The parade organiser shall ensure that all stewards and participants obey any direction given by the police in relation to this parade.**
- L. The parade organiser shall ensure that these conditions are drawn to the attention of all participants.**

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

Date: *26/6/19*

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. Conditions 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.

