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**DETERMINATION MADE IN RELATION TO THE PARADE BY BALLYMACONNELLY  
SONS OF CONQUERORS FLUTE BAND IN RASHARKIN ON FRIDAY 16 AUGUST  
2019**

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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 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 22 July 2019 concerning the parade by Ballymacconnelly Sons of Conquerors Flute Band in Rasharkin on Friday 16 August 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**

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4. The notified purpose is "*Annual Fundraising Parade*".
5. The notified parade route is '*Turnpike, Church Road; Main Street; Moneyleck Road; Bann Road; Glebe Road; Church Road, Turnpike*'.
6. There are 25 notified bands. The notified number of participants is 'unknown' as is the number of supporters.

7. The parade is notified to commence at 7.30pm and disperse at 9.30pm at the Turnpike, Rasharkin.
8. There is a tradition of parading in Rasharkin with about 16 loyalist/unionist parades in the village in 2018, and 3 nationalist/republican parades. Most of these parades do not give rise to objections and pass off peacefully. However, substantial objections are raised about the annual Ballymaconnelly parade in the village, where two groups, the Rasharkin Residents' Association and the Rasharkin Residents' Collective, had notified protests against it. The Commission understands that the Rasharkin Residents' Collective has dissolved and that a new group, the Rasharkin Community Forum, has been formed.
9. Substantial information about the history of the Ballymaconnelly parade, the related protests, and mediation efforts at resolving it, is set out in previous Commission determinations, available on its website. The Commission remains concerned that successive attempts at mediation have failed to achieve a resolution. It has, however, continued to support the efforts of an independent facilitator.
10. Last year, the Rasharkin Residents' Association withdrew its protest which meant there was, for the first time in many years only one protest by Rasharkin Residents' Collective, with about 19 participants. At the time of writing, the Commission has not received notice of a protest against this year's parade.
11. The Commission has heard from some representatives that there were improvements at last year's parade, with less disruption to the village and reduced community tensions. Representatives attributed these improvements to a number of factors, including that the parade paraded in one direction only through the village and did not re-enter Rasharkin at Glebe Road.
12. The Commission has also heard that, despite these improvements, representatives remain concerned that there has been no accommodation achieved about the parade, which has, in their view, a disproportionate impact on the life of the village, and has an adverse impact community relations. Representatives have, as in previous years, objected to the parade's scale, its notified timing until 9.30pm, and also to its notified route at Glebe Road. As this is the area where supporters assemble for the parade re-entering the village, residents claim that there is most disruption in this area, including to the elderly and other vulnerable groups, with some residents, including families with children, leaving the village to avoid the parade. The Commission received representation that the parade should be fully through the village by 8pm to allow

domiciliary care workers to access their clients. The Commission has also heard that the parade to 9.30pm is too late in the evening, with residents 'becoming more fearful' as dusk approaches.

13. Representatives have explained that the significance of the parade in Rasharkin is the connection of the Ballymaconnelly band to its local village. They have stated that the band has shown goodwill in recent years by notifying the reduced number of 25 bands, and that the change of the route several years ago has already severely curtailed the parade. Representatives have complained about the start time of 7pm imposed in previous years as it does not provide sufficient time for the invited bands to get to Rasharkin.
14. The Commission has considered and evaluated all representations received, and all information and evidence available to it. It has considered the overall impacts of the parade during the actual event, and the associated policing operation before and after the parade. It has within this context, considered the impacts of the parade on the lives of those who live in Rasharkin, including in the vicinity of the Glebe Road and Church Road.
15. 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 issues. The Commission has considered the conditions necessary and proportionate to manage the community tensions caused by this parade, and to mitigate the adverse impacts on community life and the risks of public disorder.
16. The Commission has, as last year, determined that the parade shall proceed through Rasharkin village in one direction only, and that it shall not re-enter the village, and shall not process Glebe Road. This route allows the Church Road end of the village to return to 'normal' soon after the parade has passed through the village for the first time.
17. The Commission has further determined that the adverse impacts on community life may be mitigated by a timing condition that the parade must disperse by 9.00pm. Participants must also comply with the statutory Code of Conduct relevant to areas where the majority of the population are of a different tradition, by refraining from music or behaviour which could reasonably be perceived as intentionally sectarian, provocative etc (Code of Conduct, Appendix B).
18. The conditions which the Commission has imposed are necessary, proportionate and fair in all the circumstances in respect of this parade.

19. The Commission continues to urge all parties to the dispute to pursue a local accommodation which reduces the parade's adverse impacts on community life and reduces the risks of public disorder. An accommodation between the local parties to this dispute is fundamental to the promotion of improved community relationships.

## **LEGAL CONSIDERATIONS**

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20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.
  
26. 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.

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## **DETERMINATION**

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**The Parades Commission's determination is that the following conditions are placed on the organiser and participants in the parade by Ballymacconnelly Sons of Conquerors Flute Band in Rasharkin on Friday 16 August 2019.**

- A. The parade may proceed along its notified route until the junction of Bann Road with Glebe Road where it shall not turn into Glebe Road (or proceed along any part of Glebe Road) but may instead continue along Bann Road to the parade's notified dispersal at the Turnpike.**
  
- B. The parade organiser shall ensure that the parade begins promptly at its notified commencement time of 7.30pm and that it disperses no later than 9.00pm, and that there are no undue stoppages or delays during the parade, including at Church Road and Main Street.**
  
- C. The only flags that shall be carried are the Union flag; the Orange Standard; the "Ulster Banner", often referred to as the flag of Northern Ireland; the Scottish saltire; the St Patrick saltire; and standard band name/crest flags or colours. Flags, bannerettes and symbols relating to a proscribed organisation shall in no circumstances be displayed.**
  
- D. A maximum of 25 bands as notified shall participate in the parade.**
  
- 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 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.**
  
- G. As shown at Appendix A of the Code, all participants and supporters 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**



## **APPENDIX A**

### **Guidance for Anyone Participating in Parades**

#### **A. Behaviour**

All participants in parades should:

- 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 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.