
**DETERMINATION MADE IN RELATION TO THE ABOD KILLOWEN BRANCH PARADE
NOTIFIED TO TAKE PLACE IN COLERAINE ON SATURDAY 8TH AUGUST 2020**

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 23rd July 2020 concerning the ABOD Killowen Branch parade in Coleraine on Saturday 8th August 2020. 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 '*Relief of Derry*'.
5. The notified outward route is "*Shuttle Hill; Killowen Street; Pates Lane; Somerset Drive; Drumard Drive; The Rope Walk; Kylemore Road; Hazelbank Road; Pates Lane; Killowen Street; Waterside; Old Bridge; Bridge Street; Diamond (Lay wreath); Queens Street; Circular Road; Union Street; Railway Road; Kingsgate Street; Long Commons; Newmarket Street; New Row; The Diamond; Bridge Street; Old Bridge; Waterside; Killowen Street; Shuttle Hill.*"

6. The number of participants notified is 30, no bands have been notified and the number of supporters is marked as unknown.
7. The outward parade is notified to commence from Killowen Orange Hall at 8.00am and to disperse at 10.30am at Killowen Orange Hall.
8. The Commission is concerned about specific incidents that occurred last year during the return parade, when some members of the accompanying band, the Ulster Protestant Boys, shouted expletives and displayed disorderly behaviour in the Killowen Street area. The Ulster Protestant Boys Flute Band has submitted a separate notification this year. A copy of the Commission's determination regarding that parade is available on the Commission's website.
9. The Commission has received representation from a political representative in support of the parade, stating that *'The Apprentice Boys of Derry (ABOD) Mitchelburne Club Killowen Branch have traditionally paraded along the above proposed route for a number of years in the Killowen area of Coleraine, accompanied by one band before departing for the main parade in Londonderry to celebrate the Relief of the City in the siege of 1689, which this year has been cancelled due to Covid-19 Restrictions. This year the ABOD Killowen Branch with up to 30 members in line with current Covid-19 guidelines have applied to walk the proposed route and this year will not be accompanied by a band. Members are extremely mindful of the current environment and plan to ensure that is strict observance of the guidelines.'*
10. The Commission notes that the ABOD Killowen Branch parade is one of 4 parades in Coleraine on Saturday 8th August, including a parade by the Ulster Protestant Boys notified for the same route, excepting Winston way, commencing 30 minutes later. The organisers of these 4 parades must be aware of the potential disruption their events may cause to the life of community in Coleraine, over an extended number of hours, from 8.00am to 2.00pm. These parades may be perceived as more disruptive than parades which took place before the pandemic, reflecting fears about the spread of infection. Organisers must take into account these potentially heightened community sensitivities, in the circumstances of the pandemic.
11. The Commission advises the organiser to consider his responsibilities to alert the local community in Coleraine to the parades taking place in the town, enabling other users to respond as appropriate. The community of Coleraine may reasonably expect that parades passing through its residential streets and town centre adhere to the current Covid-19 Regulations, and do not unduly disrupt the life of the community, including other users of the town.

12. 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 considered all relevant human rights issues.
13. The Commission has determined that conditions regarding strict compliance with its statutory Code of Conduct are necessary, proportionate and fair in respect of this parade. The full determination is set out below.
14. Further to this decision the Commission advises that the organiser consult with the relevant authorities regarding the requirement to perform a risk assessment of their parade/parades, in accordance with Regulation 5 of the Public Health Protection (Coronavirus, Restrictions (No 2) Regulations (Northern Ireland) 2020, part of which is reproduced below:

5. Restrictions on gatherings

5(1) Subject to paragraphs (2) to (5) a person shall not participate in an indoor or outdoor gathering which consists of more than 30 persons.

(3) Paragraph (1) shall not apply to a gathering which is organised or operated for cultural, entertainment, recreational, outdoor sports, social, community, educational, work, legal, religious or political purposes, and which fulfils the conditions in paragraph (4).

(4) The conditions referred to in paragraph (3) are that the person responsible for organising or operating the gathering –

(a) has carried out a risk assessment which meets the requirements of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 (b), whether or not that person is subject to those Regulations; and

(b) takes all reasonable measures to limit the risk of transmission of the coronavirus, including implementing the preventive and protective measures identified in the risk assessment undertaken in accordance with sub-paragraph (a) and complying with any relevant guidance issued by a Northern Ireland Department.

The Commission further advises that the requirement to perform such a risk assessment, and to implement its preventive and protective measures, in accordance with the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 (b) may be relevant to multiple parades of 30 persons moving off in quick succession of each

other. Responsibility for compliance with all Regulations rests with the organiser and the participants of the parade.

15. The Commission reiterates the responsibilities incumbent on all parade organisers regarding public health considerations, at this time. Responsibility for compliance with the Regulations rests with the organiser, and with each of the participants of the parades.

LEGAL CONSIDERATIONS

16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.

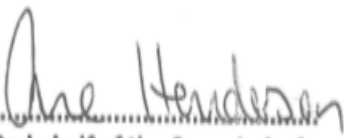
22. Having regard to the factors set out above the Commission considers that the conditions it now imposes are necessary and proportionate to the aim pursued and strike a fair balance between the needs of the community and the rights of the individual. The legal, factual and human rights issues are of 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 the ABOD Killowen Branch in Coleraine on Saturday 8th August 2020.

- A. The parade organisers shall ensure that the parade begins and disperses promptly.**
- B. As notified on the Form 11/1, no band shall participate in the parade.**
- C. When the parade is in progress there shall be no undue stoppages or delays.**
- D. The parade organisers shall ensure that all participants including any marshals are given written details of the conditions.**
- E. The organisers and all participants in the parade shall comply with the conditions set out in the Code of Conduct. For ease of reference, these are reproduced below.**
- F. 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.**
- G. 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.**
- H. 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.**

I. The parade organisers shall ensure that all stewards and participants obey any direction given by the police in relation to this parade.

Signed: 
(On behalf of the Commission)

Date: 30th July 2020

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.