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## DETERMINATION MADE IN RELATION TO THE PARADE BY THE CASTLEDERG YOUNG LOYALISTS FLUTE BAND, NOTIFIED TO TAKE PLACE IN CASTLEDERG, ON SATURDAY 18 SEPTEMBER 2021

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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 August 2021 concerning the parade by the Castlederg Young Loyalists Flute Band, in Castlederg, on Saturday 18 September 2021. The Commission has considered whether or not a determination under section 8 should be made in respect of this parade.
3. In considering whether or not 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 Display of Marching Bands.*'

5. The notified route is:

**Outward Route** (To be completed by Castlederg Young Loyalists Flute Band only) – Main Car Park; Lower Strabane Road; Lower Main Street; Upper Main Street; John Street; Ferguson Crescent; Killeter Road; Millbrook Gardens; Killeter Road; Ferguson Crescent; John Street; The Diamond; Lower Main Street; McCay Court; Main Car Park.

**Return Route** (To be completed by all bands ) – Main Car Park; Lower Strabane Road; Lower Main Street; Upper Main Street; John Street; High Street; Hospital Road; Young Crescent; Upper Strabane Road; William Street; The Diamond; Lower Main Street; McCay Court; Main Car Park.

**(From 22:00 all bands will go from John Street to the Diamond and not enter High Street)**

6. The number of participants is 3000, 80 bands and 1000 supporters.
7. The outward route is notified to commence at 19:00 from the Main Car Park, Castleberg, and to disperse at the Main Car Park, Castleberg at 19:45. The return route is notified to commence at 20:30 from the Main Car Park, Castleberg, and to disperse at the Main Car Park, Castleberg at 23:30.
8. The sensitive areas of the notified route are along Ferguson Crescent and Killeter Road.
9. Representation has been received stating that a local Community Association invited the band to parade to Millbrook Gardens *"so that our elderly & vulnerable friends & neighbours in the said area can enjoy a small piece of entertainment on that particular evening without leaving their homes. Also, the children from said area are planning to walk with the band on the route."*
10. This parade is considered within the wider context of parading in Castleberg, where there are approximately 20 loyalist/unionist parades held throughout the year.
11. The Commission recognises that over the past number of years some constructive work has taken place on the resolution of the wider parading issues in Castleberg. However, on this occasion the Commission is disappointed that a local agreement could not be reached on the parade's notified outward route and would encourage all parties to engage in dialogue going forward.
12. The Commission has received representation both supporting and objecting to the notified outward route. The representation objecting to the parade focuses on the section of the outward route along Ferguson Crescent and Killeter Road.
13. 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.
14. The Commission has determined that a single drum beat is appropriate on the section of the notified route along Ferguson Crescent and Killeter Road. The full determination is set out below.
15. The Commission, having regard to some of the representation received objecting to the parade, would remind the organiser of the importance of ensuring that all bands behave in a respectful manner at all times in accordance with the Code of Conduct.

16. 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.
17. Given the ongoing Covid-19 pandemic, the Commission draws to your attention that responsibility for compliance with current Covid-19 Regulations and the public health risks of the parade are the responsibility of the parade organiser. The Commission would advise you to consult with all relevant authorities regarding such public health risks.
18. This determination does not confer approval for any parade that may be in breach of current Covid-19 regulations. Enforcement of the Covid-19 Regulations is a matter for the PSNI.

## **LEGAL CONSIDERATIONS**

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19. 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.
20. 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.
21. 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.
22. 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.

23. 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.
24. 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.
25. 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 the Castleberg Young Loyalists Flute Band in Castleberg on Saturday 18 September 2021.**

- A. A single drum beat only is to be played between the junction of John Street and Main Street and the junction of Killeter Road and Millbrook Gardens, and the Junction of Millbrook Gardens and the Killeter Road and the junction of High Street and Priest's Lane on the parade's notified outward route.**
- B. As notified on the Form 11/1 only Castleberg Young Loyalists Flute Band shall participate in the notified outward route.**
- C. The parade organiser shall ensure that the parade begins and disperses promptly.**
- D. Only the bands notified on the Form 11/1 shall participate in the notified return route of the parade.**
- E. When the parade is in progress, there shall be no undue stoppages or delays.**
- F. The parade organiser shall ensure that all participants including any marshals, band leaders and band members are given written details of the conditions.**
- G. The organiser 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.**
- H. As shown at Appendix A 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.**

- I. 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.
  
- J. The parade organiser shall arrange for the presence of an adequate number of stewards to ensure that all parade participants act in an orderly manner.
  
- K. The parade organiser shall ensure that all stewards and participants obey any direction given by the police in relation to this parade.

Signed:   
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(On behalf of the Commission)

Date:   
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## **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.

