
**DETERMINATION MADE IN RELATION TO THE PORTADOWN DISTRICT LOL NO 1 PARADE
NOTIFIED TO TAKE PLACE IN PORTADOWN ON SUNDAY 28 APRIL 2024**

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 19 March 2024 concerning the Portadown District LOL No 1 parade in Portadown on Sunday 28 April 2024. 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

4. The notified purpose is ‘To complete our 1998 Parade from Drumcree Church to Carleton Street.’
5. The notified 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 notified is ‘*unknown*’, with two accompanying bands. The number of supporters notified is also ‘*unknown*’.
7. The parade is notified to commence at 1.00pm from Drumcree Road and process to Carleton Street Orange Hall dispersing at 2.30pm.

8. The Commission is aware there are sensitivities about parades in Portadown and recognises that there continues to be a strain on community relations.
9. As part of its statutory functions the Parades Commission has engaged in a number of outreach events with the parties proposing and objecting to this parade. The current views and positions held by those involved are set out below.
10. Representations were received from the office bearers of Portadown LOL No. 1. They reasserted their commitment to bringing home the banner which remains in Drumcree Parish Church and completing "the 1998 route". They believe that the long-standing determination that prevents them from doing so is an unjustified infringement of their rights. The office bearers accept that whilst historically they initially refused to participate in dialogue with the residents, they have for many years now expressed a willingness to engage in an effort to reach an accommodation. They stated that areas for compromise could include factors such as the size, time and form of the parade to bring home the banner, but not the route. It is their present view that they and others on their behalf have made repeated efforts to initiate direct or indirect dialogue with residents which have either been rejected or met with silence. Despite this they reasserted that their willingness to meet with residents still stands. They expressed a frustration with the Commission's current position believing that it creates an impasse whereby residents have what they want and therefore do not need to engage. For them this allows the problem to continue without resolution, a problem which they are adamant continues to exist.
11. Representations were received from the Garvaghy Road Residents Coalition. They described the impact the past has had on their community and the trauma that remains. They outlined the work that has been undertaken by the community to develop the area both economically and socially and to move the community forward. They reiterated their position that any initiative to facilitate an Orange Order march on the Garvaghy Road would bring to the fore issues, anxieties, and fears which the residents consider should remain in the past and which could have wider ramifications. The residents considered that previous attempts at dialogue had been 'disingenuous and futile' because the District had come to them without a willingness to compromise on the return route, the route being the main area of contention. They did not see any reason to engage in any further talks as the community had moved on. They reasserted their view that they simply do not accept the ongoing argument from the Orange Order that the 1998 parade requires completion along the notified route. The residents stress that nationalists in Portadown have declared their continued willingness to accept an alternative, less contentious, route along Corcrain/Dungannon Road.

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 cause to believe that should the parade process the entirety of its notified route, there will be an adverse effect on community relations and a potential for public disorder. The conditions imposed are necessary, proportionate and fair in respect of this parade. These are set out below.
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.

CONDITIONS OF THIS 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 28 April 2024.

- A. The parade is prohibited from entering that part of the notified route between Drumcree Parish Church on Drumcree Road, and Castle Street. The parade is prohibited from entering that part of the notified route which includes the entire length of Garvaghy Road, including Parkmount and Victoria Terrace.**
- B. Only the bands notified on the Form 11/1 shall participate in the parade.**
- C. The parade organiser shall ensure that the parade shall begin and disperse promptly.**
- D. When the parade is in progress there shall be no undue stoppages or delays.**
- E. The parade organiser shall ensure that the band leaders and all band members are given written details of the restrictions listed at A above in accordance with section 2.3 of the Code of Conduct.**
- F. 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. For ease of reference, these are reproduced below.**
- G. 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.**
- H. The Commission further re-affirms the importance of respectful behaviour in the vicinity of interface areas.**
- I. 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.**

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

Signed *Evans M.*

Date..... *28/3/24*

(On behalf of the Commission)

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. 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.

Signed *Emily Wain*

Date..... *28/3/24*

(On behalf of the Commission)

