

Report

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Report to:	Corporate Resources Committee
Date of Meeting:	23 November 2011
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Civic Government (Scotland) Act 1982 - Marches and Parades
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ allow the Committee to consider the responses received to a consultation exercise to review the terms and conditions presently attached to marches and parades

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the status quo in relation to the terms and conditions attached to marches and parades be maintained; and
- (2) that the terms and conditions attached to marches and parades be subject to regular review.

3. Background

3.1. A complete review of the legislation which governs marches and parades was undertaken by Sir John Orr in 2003. As a result of that review, the procedure surrounding marches and parades was altered. Despite these alterations and the new guidance which followed, local authorities were not given increased powers to refuse notifications or impose sanctions and there is still a presumption in favour of a parade being allowed.

3.2. As Members will be aware from the report presented to them on 30 March 2011, Strathclyde Police have been reviewing their policing procedures and had requested that the Council also reviewed the way parades were processed. Members noted that, if they agreed, this would result in a number of changes to the conditions attached to parades. In order to determine if any changes were required, and to ensure that any changes introduced achieved a balance between a) the right to freedom of assembly and association and b) the rights of others to peaceful possession of their properties, Members agreed that a consultation exercise be undertaken.

4. Consultation

4.1. The consultation period ran from 13 May until 12 August 2011. Members will be aware from the documentation that some letters were received just after the August 12 deadline, but these were considered as they had been posted before the deadline.

- 4.2. In addition to placing adverts in the local press, consultation letters had been sent out to all organisations that had held parades in the last 12 months. The letters had also been sent to persons on the opt-in list, Community Councils, and the clergy. Organisations that had held a parade during the previous three years were also notified to ensure that anyone who usually had an annual parade but missed a year for any reason was included in the exercise.
- 4.3. In addition to the original consultation letter, a further letter was sent to organisations asking if they wished to attend a meeting to discuss their responses or add to the same.
- 4.4. Adverts were again placed in the local press on 20/21 July 2011 to remind members of the public of the closing date of the consultation.
- 4.5. Fourteen meetings were held with representatives from various organisations throughout South Lanarkshire as well as interested individuals. Notes of these meetings have been included with the written responses where appropriate. In total, 333 written responses were received, broken down as follows:-
- ◆ 3 responses from 2 Community Councils
 - ◆ 2 responses from Council Resources
 - ◆ 2 responses from elected members
 - ◆ 1 response from an MSP
 - ◆ 5 responses from Gala Committees
 - ◆ 1 response from Rotary Club
 - ◆ 32 responses from organisations who march in the South Lanarkshire area (1 of those responses also contained a 36 signature petition and a 10 signature petition)
- 4.6. The balance of responses was made up of 273 individual letters and 14 petitions. Each petition contained between 6 and 13 signatures (most containing 12 signatures). Out of all the responses only approximately 10 responses were completely in favour of the proposals and this included the Police response. Another response in favour of the proposals was noted at one of the aforementioned meetings. The vast majority of the individual responses were against any sort of change to the current conditions.
- 4.7. An internet petition against the proposals was set up which had approximately 1,300 names on it. This petition was not presented to Licensing and Registration. However, since its existence is known, it is only fitting that this be brought to the attention of members.

It should be noted that:-

- ◆ anyone can add their, or someone else's name to the petition
- ◆ some people added their name more than once
- ◆ some people merely gave their first names
- ◆ some people were outwith the South Lanarkshire area
- ◆ some names contained in the petition such as "Ian Paisley" and "Archie Strang" were considered dubious

On the basis of the above, it is a matter for members to consider what weight, if any, they give to this petition.

- 4.8. Of the organisations themselves, most of the larger organisations were in favour of trained stewards as this seems to reflect current practice. However, the Gala Committees, Community Councils and the MSP raised concerns that if implemented some of the conditions could have an adverse effect on traditional events such as Lanimer Day and Landemer Day as well as individual gala days.
- 4.9. A synopsis of all the responses, copies of the responses and notes of meetings held in connection with the consultation have been made available in the members' areas. The current conditions which are attached to parades are as detailed in Appendix 1 and the requested additional and amended conditions are as detailed in Appendix 2. The current conditions were approved by the Corporate Resources Committee at its meeting held on 21 February 2007.

5. Legal Position

- 5.1. Public processions are processed in accordance with the terms of the Civic Government (Scotland) Act 1982 as amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006. However, the legislation has to be read in conjunction with Articles 10 (Freedom of expression) and 11 (Freedom of assembly and association) of the European Convention on Human Rights.
- 5.2. Case Law
- 5.2.1 The leading Scottish case on marches and parades is Aberdeen Bon-Accord Loyal Orange Lodge 701 v Aberdeen City Council 2002 S.L.T, (Sh.Ct 52). In this case Sheriff Cowan held that:-
- ◆ there was a public right to pass along a public road, which might be subject to limitations, which was why the 1982 Act permitted the imposition of conditions on processions
 - ◆ it is for the public authority to show that it is necessary to curtail the basic right before any restriction will be upheld
 - ◆ it has been repeatedly said that decisions in the exercise of functions such as the respondents (Aberdeen City Council) were carrying out must be comprehensible. To be comprehensible they must be based on facts. Such decisions must also be fair. To be fair the facts on which they are based must be known
- 5.2.2. In addition, over the years there has been a raft of Human Rights cases relating to the right to march as follows:-
- ◆ *Arzte v Austria* 1988
 - ◆ *Steel v the United Kingdom*
 - ◆ *Krass v France*
 - ◆ *United Macedonian Organisation Ilinden and Ivanov v Bulgaria*

6. Proposals

- 6.1. Given the outcome of the consultation exercise, as outlined at paragraph 4.6, it is proposed that no changes are made to the terms and conditions attached to marches and parades.
- 6.2. Also, given the concerns raised by Gala Committees and smaller organisations, it is considered that a condition requiring trained stewards would inhibit smaller community based organisations from holding certain traditional events.

7. Next Steps

- 7.1. It is intended to look at the way the parades are currently administered to see if the procedure can be streamlined. The procedure will be subject to a “lean thinking process” which will involve members of staff, panel members and representatives from some of the organisations.
- 7.2. It is anticipated that the lean thinking exercise will take place in February/March 2012.

8. Employee Implications

- 8.1. None.

9. Financial Implications

- 9.1. None.

10. Other Implications

- 10.1. The risk to the Council is that it may be subject to allegations from residents within the area in which any parade had taken place that it had not given due regard to public safety when it took its decision not to prohibit the parade. Any such allegation is mitigated by the notification process which was carried out prior to this date and by holding a hearing if necessary to establish all of the background facts relating to the notification.
- 10.2. Any changes to the conditions could result in increased court actions brought by organisations who consider that their human rights have been infringed. The Council would incur the cost of defending the action and, if unsuccessful, the expenses would in all likelihood be awarded against it.
- 10.3. There are no apparent implications in terms of sustainable development.

11. Equality Impact Assessment and Consultation Arrangements

- 11.1. No impact assessment is required in terms of the proposals contained within this report.
- 11.2. A 12 week consultation exercise has taken place which involved the community at large.

Paul Manning

Executive Director (Finance and Corporate Resources)

8 November 2011

Link(s) to Council Objectives/Improvement Themes/Values

- Improve community safety

Previous References

Corporate Resources Committee - 30 March 2011

List of Background Papers

Consultation Responses

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Teresa Stone, Licensing and Registration Manager

Ext: 4806 (Tel: 01698 454806)

E-mail: teresa.stone@southlanarkshire.gov.uk



**Finance and Corporate Resources
Legal Services**

Conditions for parades/processions

1. No band shall play before 7.30 am or later than 9.00 pm
2. Sufficient identifiable stewards and marshals must be provided to ensure participants comply with directions. A ratio of one steward to ten participants
3. Stewards and marshals should be easily identifiable
4. The organiser will ensure that participants behave with due respect at 'sensitive' areas such as places of worship
5. The band or bands taking part shall cease to play when approaching and passing places of worship while services are in progress
6. The procession shall keep to the designated route as directed by the Police
7. Organisers shall ensure those involved in the march or parade refrain from consuming alcohol or drugs prior to or during the procession
8. Flags relating to illegal organisations or which are likely to cause offence will not be displayed
9. The procession where appropriate shall be split into sections in order to avoid serious dislocation of traffic and to facilitate the crossing of pedestrians who have a right of free access and passage to or through any public area
10. The organiser will ensure that participants do not march more than 4 abreast, keeping to the near or left hand side of the street (except on one way streets where they will keep to the right)
11. No halberds or weapons of any description shall be carried
12. No obstruction shall be caused
13. The instruction of the Police shall be obeyed
14. The conditions of Section 62 of the Control of Pollution Act 1974 in relation to the use of loudspeakers shall be observed
15. No cause for complaint shall be given
16. The terms of the Public Order Act 1936 in relation to the prohibition of the wearing of uniforms signifying association with any political organisations etc shall be observed

17. The march/parade shall disperse in good order as soon as the procession concludes
18. The organiser shall be responsible for ensuring that these conditions are brought to the notice of persons, bodies and bands participating and ensuring that all participants comply with directions regarding their own safety and that of members of the public

For more information or if you want this information in a different format or language, please phone (01698) 454023 or email licensing@southlanarkshire.gov.uk

Requested Additional/Amended Conditions

1. No bands shall play before 9 am or later than 6 pm
2. Chief steward will be appointed who is named and identifiable
3. All stewards will be suitably trained
4. Where music is being played which results in sectarian singing the music shall cease
5. Feeder and return processions will be considered as separate notification and the submission of individual notifications for each procession will be required
6. Ensure that all playing of music ceases when approaching and passing places of worship irrespective of whether a service is in progress as instructed by the Police
7. Behave with due respect at sensitive areas such as places of worship and this includes all participants in processions
8. Where possible, processions should commence in a public park and end in a public park