

EAST AYRSHIRE COUNCIL

COMMUNITY SERVICES COMMITTEE – 23 MARCH 2005

REVIEW OF MARCHES AND PARADES IN SCOTLAND

Report by Executive Director of Neighbourhood Services

1. PURPOSE OF REPORT

- 1.1 To advise the Committee of the outcome of the Review of Marches and Parades in Scotland, undertaken by Sir John Orr on behalf of the Scottish Executive.

2. BACKGROUND

- 2.1 In June 2004, the First Minister appointed Sir John Orr to undertake an independent Review of Marches and Parades in Scotland. Sir John was invited to conclude his review by the end of 2004 and report back to Ministers with his recommendations.

- 2.2 The review has now been concluded and was released on 24th January 2005. The five key areas covered in the report are:-

- (i) the period of notice organisers give to Local Authorities, the Police and communities (recommendations 1 - 8).
- (ii) the best way to ensure greater community involvement in decisions about marches and parades (recommendations 9 – 14).
- (iii) the basis for determining when to restrict, refuse or re-route marches and parades (recommendations 15 – 23).
- (iv) the number of marches and parades taking place in communities and the effects these have (recommendations 24 – 35).
- (v) the policing of marches and parades (recommendations 36 – 38).

- 2.3 Each year there are about 1,700 marches and parades in Scotland. In Scotland, during 2003, there were 853 Orange marches, and 859 other marches, ranging from political demonstrations to local celebrations involving decorated floats and local bands.

In East Ayrshire during that year, there were 26 Orange marches and approximately 14 other marches/processions.

3. DISCUSSION

- 3.1 The review contains some 38 recommendations for consideration by Ministers, some of which will require changes in legislation and will impact on Scottish Local Authorities in a variety of ways. Details of the recommendations and the possible impact on this Authority are detailed below.

Organisers should give 28 days notice to Local Authorities and Police of their intention to hold a procession.

At present only 7 days notice is required and this change would allow additional time for consultations and discussions to take place with Local Authorities, Police, community representatives and the organisers.

In certain circumstances, where processions are arranged in response to unforeseen events, such as a factory closures, the 28 day notification should be waived and organisers should be able to give less notice.

No perceived impact.

All organisers should notify their intention to march to Local Authorities and the Police.

At present non-contentious organisations such as the Boys Brigade, Scouts, church organisations, local gala day committees, etc., are exempt from the notification provisions.

This will have some impact on administrative workloads and expenditure of both the Council and the Police.

Local Authorities and the Police should set up 'single gateways' within their organisations to deal with procession notifications.

Such a system is already in place within East Ayrshire, in co-operation with Strathclyde Police, but may require some fine tuning.

Local Authorities and the Police should take certain key steps to assess notifications during the extended notification period.

The key steps and a suggested timetable are detailed within the context of the review document including meetings with organisers, informing the local community, etc. This will inevitably lead to and increase in the cost of administration of the scheme.

Local Authorities should complete risk assessments and impact analyses on notifications to provide good quality, factually based information to inform the decision making process.

The risk assessment by the Authority should highlight issues that need to be taken into account when reaching a decision on a notification such as road works, dangerous buildings, etc. Impact analysis should enable the Authority to identify systematically the impact a procession might have. The authority could consider the disruption to the life of the community that a procession might cause, for example disruption to traffic flow, access to properties and businesses, etc. This does not detract from the organisers' own responsibility to carry out a risk assessment.

This recommendation may involve considerable financial commitment from the Council in providing suitably qualified staff to carry out the risk assessment and impact analysis.

The Scottish Executive should ensure that there are effective monitoring arrangements in place to demonstrate that local authorities and the police are implementing the new procedures in a way appropriate to local circumstances, with a regular public report being produced.

No particular implications for the Council other than ensuring that the procedures are implemented in a satisfactory manner.

Local Authority associations and Police associations should ensure good practice is shared more widely.

As an example, Sir John has suggested that a 'How To' guidance booklet could be produced jointly for the information of organisers. If adopted, this could involve some expenditure by the Council.

Local Authorities should prepare an annual digest of processions with organisers at the beginning of the calendar year, update it every quarter and ensure that it is well publicised and accessible.

This type of information is already available and could be put on the Council Website. However, obtaining all the information at the beginning of the calendar year might prove difficult, as notifications are submitted throughout the year.

Local Authorities should provide up-to-date information about forthcoming processions to local communities using the most appropriate means.

Sir John has suggested that this information could be disseminated by such means as local radio and newspapers, e-mail alerts, websites, posters on routes and in local offices or by letter.

Other than by using the Council website, there are obvious cost implications for the Council.

Local Authorities should maintain an 'opt-in' list for organisations to receive information about processions.

For example, churches could opt-in to avoid clashes with weddings or funerals, transport undertakers to allow alterations to services, businesses to re-arrange deliveries. This opt-in list already operates successfully in the City of London.

Local Authorities should establish mechanisms, appropriate to their area, to ensure that communities are able to express their views on processions.

Providing improved information about processions is very important but it is not sufficient in itself. People need to be able to express their views about processions and know what scope they have for influencing the decision making process. Community engagement and consultation is an important cornerstone in the way in which local authorities are required to work and they should build on existing mechanisms to this end.

There could be some cost implications for the Council due to an increase in workload.

Local Authorities should take into account wider views, including community views, when taking decisions on procession notifications.

No major cost implications for the Council as this is effectively carried out at present.

Local Authorities should put in place clear procedures for considering community views.

New Procedures will have to be developed to take into account the recommendations contained in the Review Document, if and when approved by the Scottish Executive.

There will be cost implications in developing and administering the new procedures.

Local Authorities should remain responsible for taking decisions on procession notifications.

No major implications for the Council.

Local Authorities should be able to take into account a wider range of issues when reaching decisions on notifications. Their decisions should be evidence based and explained to organisers.

At present only concerns regarding public order and public safety are taken into account. It is recommended that this be extended to allow the Authority to also consider such factors as the risk of damage to property, the risk of serious disruption to the life of the community, the risk of disruption to pedestrian and vehicular traffic, the risk of disruption to businesses, the risk of intimidation, the presence of environmental hazards and general health and safety issues.

Possible cost implications due to the need for wider consultation on notifications.

Local Authorities should have discretion to impose conditions proportionate to the notification and to address the issues upon which it based its decision.

Currently, Local Authorities accept most notifications and do not impose conditions on them through the order-making powers under the Civic Government (Scotland) Act 1982. In practice, rather than making a formal order, practical issues are discussed with the Police, the organisers and other interested parties and agreement reached as to dates, timings and routes. It is recommended that Local Authorities should not be fettered in the conditions they can set, as long as they can demonstrate that they are proportionate to the aims of the restriction and imposed for a justifiable reason, based on evidence and in response to an issue they have properly taken into account in their decision making process.

No obvious implications for the Council.

Local Authorities should respect key traditional dates but organisers should be prepared to compromise over routes where necessary.

No implications for the Council.

Organisers should provide a written, signed notification providing the key information required by the Local Authority.

A standard notification form is already in use within East Ayrshire but this may have to be amended to include additional information.

This will involve administration and printing costs.

There should be a precursory meeting following the submission of a signed notification, facilitated by the Local Authority, involving at least the organiser and the Police, resulting in a signed outcome agreement.

There will be cost implications relative to such meetings such as senior staff time, provision of suitable venues and additional administrative costs.

Once the notification has been considered by the Local Authority, they should issue organisers with a 'permit to process' outlining what had been agreed and what was expected.

No major implications for the Council.

Organisers should not be required to pay a fee for a notification to organise a procession.

COSLA has already made representation to the Ministers, intimating that Local Authorities should be able to recover their costs from the organisers.

Debriefing meeting should be held after processions with the organisers, local authority and the Police and other relevant groups, resulting in a signed record of what occurred.

There will be cost implications relative to these meetings such as senior staff time, provision of suitable venues and additional administrative costs.

Organisers should continue to act responsibly in ensuring processions are organised for appropriate purposes and consider the scope for combining processions on certain occasions.

Primarily a matter for organisers of processions and marches although there may have to be input from the Council and the Police.

Local Authorities and the Police should ensure that they keep statistics on the number of processions taking place and the associated Policing costs.

More detailed records will have to be kept in order to produce reliable statistical information for submission to the Scottish Executive, as part of the proposed monitoring process. There may be cost implications for the Council.

As part of the planning process, organisers should consider whether it is necessary to take out Public Liability Insurance.

Primarily a matter for organisers of processions and marches although there may have to be input from the Council and the Police.

Local Authorities should produce 'How To' guides for organisers of processions.

There are obvious cost implications in preparing and publishing such a guide.

Local Authorities and the Police should develop a code of conduct for organisers and participants and this should be set out in the 'permit to process'.

As above there are obvious cost implications in preparing and publishing such a code of practice.

Organisers should ensure that their existing codes of conduct reinforce the behaviour expected of participants in the 'permit to process'.

This is a matter for the individual organisations.

In certain circumstances, should the risk assessment demonstrate it is necessary, Local Authorities should be able to require organisers to take out insurance or provide a behaviour bond.

It is unlikely that this provision will be used in practice as the marches and parades in this area are relatively small. However, if a major procession was to take place in the area, as happened in both Cumnock and Kilmarnock in recent years, it would have to be considered.

Organisers should recognise the degree of responsibility they have for the behaviour of onlookers and exercise appropriate influence to improve behaviour where they can.

This is a matter for the individual organisations.

Organisers should ensure that they have effective stewarding arrangements in place for the management of processions, and Local Authorities and the Police consider whether there is appropriate training that can be offered.

The cost of any training required would presumably be the responsibility of the organisers. Sir John notes that other organisations such as the STUC and Equality Network have experience in training stewards.

Bands playing at processions should identify a named individual who will be present on the day to be responsible for the conduct of the band and its supporters.

The organisers will have to provide this information in the amended notification form. The bands associated with most of the sectarian organisations are already 'approved' by the respective organisations and the naming of a responsible individual will provide a point of contact to help in the policing.

The police should exercise their enforcement powers appropriately and, in liaison with stewards, ensuring the policing of onlookers is effective and their actions considered as part of the debriefing process.

This is a matter solely for Police authorities, with no implications for the Council.

Local Authorities without byelaws prohibiting the consumption of alcohol in public places should consider putting them in place.

East Ayrshire already has byelaws in place covering all the populated areas within the Council area.

Organisers of processions should not be required to meet policing costs.

The policing of parades and processions represents a significant cost to police authorities. Figures supplied by the Association of Chief Police Officers in Scotland show that the salary costs alone associated with policing over 1,800 marches across Scotland during 2003/2004 are in the region of £1.5 million. Sir John is of the opinion that the organisers of marches or parades are exercising a right in law to process, and therefore should not be required to meet the policing costs

Local Authorities should consider relevant Police costs when reaching decisions on march notifications.

Some processions impose a very significant demand on police resources. However, Human Rights legislation requires States to act on occasion to protect people's right to peaceful assembly. It would not be appropriate for the Local Authority to ban a procession on costs alone, but it would be possible place conditions on the organisers by changing times, routes etc., in order to avoid clashes with other events in the area and thus reduce the impact on the Police commitments.

Police forces should ensure that there is appropriate briefing provided for officers policing processions and that it includes information about the reasons for the procession and the relevant background to the organisation involved.

This is a matter for the Police Authorities.

- 3.2 At the launch of the Review Document, Cathy Jamieson MSP, Justice Minister, stated that 'the Review had struck the right balance between the right to march and the right of communities to have a say in how, where and when marches take place. What is being set out in recommendations and in action should not be seen as a threat to culture, tradition and free speech. This not about the heavy hand of authority, but it is about how legitimate marches and parades can be planned, notified, discussed and carried out in a modern professional way.'
- 3.3 The Grand Orange Lodge of Scotland have welcomed the recommendations, adding that they balanced the rights and responsibilities of the organisation and local communities.
- 3.4 The Convention of Scottish Local Authorities is of the opinion that local government should largely be able to support the recommendations. However, COSLA's support for the Review should be entirely conditional on Ministers bringing forward the necessary legislation and resources local government will require to manage implementation of the recommendations.
- 3.5 It should be noted that the Scottish Executive now has to consider Sir John Orr's report and thereafter if appropriate, promote changes to the existing Legislation. Any such changes will be reported back to the Committee in due course.

4. FINANCIAL IMPLICATIONS

- 4.1 It is not possible at this time to specify the additional funding required to implement the recommendations contained within the Review Document.

5. LEGAL IMPLICATIONS

- 5.1 Section 62 Civic Government (Scotland) Act 1982.
- 5.2 Any future legislation implemented by the Scottish Executive following full consideration of the Review of Marches and Parades.
- 5.3 Human Rights legislation.

6. POLICY IMPLICATIONS

- 6.1 There may be policy implications for the Council depending on the outcome of full consideration of the Review document.

7. CONCLUSIONS

- 7.1 In June 2004, the First Minister appointed Sir John Orr to undertake an independent Review of Marches and Parades in Scotland. Sir John was invited to conclude his review by the end of 2004 and report back to Ministers with his recommendations.
- 7.2 The review has now been concluded and was released on 24 January 2005.
- 7.3 The review contains some 38 recommendations for consideration by Ministers, some of which will require changes in legislation and will impact on Scottish Local Authorities in a variety of ways.

8. RECOMMENDATIONS

- 8.1 It is recommended that:-
- (i) Committee note that the Scottish Executive will now consider Sir John Orr's report and may subsequently promote legislative changes;
 - (ii) any proposed changes will be the subject of a further report to Committee; and
 - (iii) Committee otherwise note the report.

William Stafford
Executive Director of Neighbourhood Services

WS/GS

7 March 2005

LIST OF BACKGROUND PAPERS

1. Review of Marches and Parades in Scotland – A Report by Sir John Orr. Published by the Scottish Ministers in January 2005.
2. Review of Marches and Parades – A Survey of Views Across Scotland. Prepared by Lorraine Murray, Scottish Executive Social Research

Any person wishing to inspect any of the background papers listed above should telephone 01563 576111 and ask for Mr John Crawford, Head of Protective Services.

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