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# The North Report on Parades - The Full Text

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## Review of Parades and Marches in Northern Ireland

### Executive Summary

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#### Introduction

1. The dispute in the summer of 1996 between the Loyal Orders and Nationalist residents groups, which required major intervention by the police under the public order legislation, brought Northern Ireland close to anarchy. Controversy surrounding a parade on Sunday 7 July by the members of the Orange Order from Drumcree parish church down the Garvaghy Road on the outskirts of Portadown, which was opposed by Nationalist residents, led to widespread serious public disorder over the following week, first among Unionists and then among Nationalists. There were major costs to Northern Ireland:

- \*two deaths and a significant number of injuries,
- \*polarisation between the two parts of the

community,

- \*damage to the relationship between the police and the community,
- \*public expenditure costs of at least £30 million,
- \*losses to trade, tourism and inward investment.

2. In a statement to the House of Commons on 15 July 1996, the Secretary of State for Northern Ireland announced the setting up of a review to make recommendations for the better management of future controversial parades. The membership of the Team to conduct the Review and the following terms of reference were announced shortly

thereafter:

*"To review, in the light of evidence received from any interested party and having regard to the particular experience of 1996, the current arrangements for handling public processions and open-air public meetings and associated public order issues in Northern Ireland, including*

*the adequacy of the current legal provisions, and in particular the adequacy of the statutory criteria used in making decisions on public processions and open-air public meetings,*

*the powers and responsibilities of the Secretary of State, police and others,*

*the possible need for new machinery, both formal and informal, to play a part in determining whether and how certain public processions and open-air public meetings should take place,*

*the possible role for and composition of Codes of Practice for organisers of and participants in public processions and open-air public meetings,*

*and to make recommendations by the end of January 1997."*

3. We formally launched the Review on 28 August 1996. We

\*sent letters to over 130 interested parties,

inviting written evidence by 15 October,

\*placed advertisements similarly inviting

written evidence,

\*distributed 15,000 leaflets with the text of

the advertisement.

4. We also commissioned a major survey of the attitudes of the public towards parades and marches, selecting a representative sample of all sections of the population of Northern Ireland, together with a number of smaller surveys carried out in selected areas where the experiences of those questioned might be particularly relevant.

5. Throughout the Review, we have operated as a Team, working together as a single unit. During the information-gathering phase of the Review, we:

\*visited thirteen separate locations across

Northern Ireland,

- \*received just over 300 submissions and letters,
- \*held 93 meetings with over 270 individuals,
- \*witnessed several parades and reviewed video evidence,
- \*researched a wide range of background literature.

Our Report lists many of the groups and individuals who gave evidence.

6. Our Report is being published separately from this Executive Summary. Copies are available from the Stationery Office\* and major booksellers. The full results of the surveys are published in separate volumes, again available from the Stationery Office.

## Contents

7. This Executive Summary highlights key sections of our Report, in particular:

- \*The Challenge Posed for Northern Ireland

Society,

- \*The Nature of the Parades Issue,

- \*What We Were Told,

- \*The Main Events of 1996,

- \*Parading Organisations,

- \*The Legal and Human Rights Framework,

- \*Our Main Recommendations.

## The Challenge Posed for Northern Ireland Society

8. The parades\* issue is a microcosm of the political problems of Northern Ireland. It is not new. It is a complex issue which has great capacity to polarise local communities and the whole of Northern Ireland society. The events of 1996 showed that Northern Ireland remains divided, too often marked by misunderstanding, mistrust and fear.

9. Northern Ireland society is significantly lacking in tolerance and sensitivity towards

the perceptions and experiences of other groups within it. Neither the law nor changes to it can of themselves resolve the underlying anxieties or heal the divisions. More is needed.

10. There is a choice to be made both in the months ahead and in the longer term. Many people have told us of their alarm at the abyss of anarchy which opened up last summer. We believe that our way forward will commend itself to the vast majority of reasonable people in Northern Ireland. We see the future in terms of a consensus society, one:

\*built on mutual understanding,

\*which celebrates cultural diversity,

\*in which its citizens have a more secure sense of belonging,

\*in which conflicting interests are

accommodated.

#### The Nature of the Parades Issue

11. There are a number of strands in the parades issue:

\*public demonstration of cultural traditions, religious beliefs or political aspirations,

\*the unwelcome impact such demonstrations may have on others in the community - usually, but not exclusively, Nationalist residents,

\*the ability of residents groups to prevent or delay Loyal Orders' parades,

\*a lack of understanding of the other tradition, and hence difficulty in reaching local accommodation,

\*the nature of the intervention by the authorities, including policing, in a legislative framework that appears to reward those who threaten disorder.

12. It is an important issue. In the Northern Ireland-wide attitude survey that we commissioned the majority of those questioned believed that it was important.

13. The vast majority of parades pass off peaceably, indeed enjoyably, and without offence; but a very small minority have led to violent confrontation and a further small minority, whilst on the whole peaceful, are nevertheless at best tolerated by one section of the community. The importance of parades requires careful analysis, because their

meaning can differ radically according to the perspectives of those taking part or of those who are reacting to them.

14. For those taking part, parades:

\*express a sense of identity,

\*offer the enjoyment of the day, with its

spectacle and sense of occasion,

\*bear witness to what participants believe,

\*maintain a sense of continuity with previous generations.

Those taking part are well aware of the differences between the various Loyal Orders and of the significance of each parade. Others in the community may not understand the point of view of the parading organisation or the significance of the parade.

15. Furthermore, the symbolism of the parades is viewed very differently by other parties. Commemoration of former victories for one side of the community can smack of power politics to the other. The same sound of the drums, which puts heart into one, can sound menacing for the other. It may be said that this is not the intention, but it may nevertheless have that effect.

16. The present procedural arrangements provide no structured opportunity for those of whatever background to whom a parade is unwelcome to make their views known, either to the organisers or to the police.

17. Members of residents groups share a desire to be treated with respect, and to have their views more openly taken into account. The background and political affiliation of some, though not all, of the residents groups' spokespersons in turn heightens the concern of the Loyal Orders that there is a concerted campaign to restrict what they see as their traditional rights.

18. Under the Public Order (Northern Ireland) Order 1987, an organiser is required to provide at least 7 days advance notice of a parade, thus enabling the police to consider any public order implications of the proposed event and to impose conditions where necessary. This is widely perceived as the police both making the decision and then enforcing it. In contentious parades, the police can find themselves caught between the disputing parties. Indeed the Royal Ulster Constabulary (RUC) has often sought to play a mediating role. The parties themselves have sometimes sought to engage external mediators to facilitate local agreement. For various reasons, comparatively few negotiations have led to accommodation, though there is often more progress made than is apparent to the wider public.

## What We Were Told

19. Representatives of the Loyal Orders stressed to us the religious, cultural and traditional importance of parades. They believed that the right to parade peacefully is a basic legal right. In their view, the 1987 Order is flawed in that it imposes undue restrictions on this right, and provides incentives for those who seek to create disorder. If residents groups were allowed to have a veto on parades, no-go areas would be created. They believed this to be part of a wider Republican agenda, with paramilitary backing. Furthermore, they expressed the belief that some police decisions were subject to political interference. The Orange Order and the Ulster Unionist Party advocated a system of categorisation in which traditional parades and routes would in effect be registered with the police and then given a safe passage. In this way, the prospect of further concessions would be minimised.

20. Nationalist representatives, whether from residents groups or elsewhere, made clear that they accepted the right of the Loyal Orders to parade in the many parts of the community where parades were welcome. But, they said, residents in Nationalist areas that were directly affected by parades did have real concerns about them; parades here in the past had at best been tolerated, not welcomed. On this issue, at least, the spokespersons of residents groups did broadly speak for the majority of residents, as was suggested by our survey. Residents saw parades as sectarian and sustaining territorial claims in areas where major demographic change had altered the composition of the local community. Elements of parades, particularly the behaviour of some of the bands and the "hangers on", could be threatening. The policing of parades was another source of grievance for some, ranging from concern over disruption of traffic and the restriction of free movement to a perception that the police acted as agents of the Loyal Orders.

21. We heard from many other interested parties. There were a number of important common strands in the points made to us:

- \*there should be encouragement for parties in disputes to reach local accommodation,
- \*the 1987 Order provided incentives to disorder and should be changed,
- \*there were competing rights - the marchers' and the residents'/community's - which had to be taken into account,
- \*it was not right for the police to make and then enforce the decision,
- \*there was a role for an independent body, of either an advisory or decision-making nature,
- \*there was support for principles and processes that would provide greater information

about parades and more consistency of outcome,

\*there was a case for guidelines and a code of conduct to regulate the conduct of participants and protesters.

There was, in summary, a widely held view that change is needed.

22. This view was supported by the evidence in the Northern Ireland-wide survey we commissioned. The results are summarised in our report, and set out in full in a separate volume: *Public Attitudes to Parades and Marches in Northern Ireland*. The key results from that survey which pointed towards changes are highlighted below:

a) in the event of a dispute between residents and marchers, 88% said a negotiated accommodation should be sought,

b) if an accommodation is not possible, 79% said a binding decision should be taken by someone else,

c) to the question who should take this binding decision,

i) 49% said an independent commission,

ii) 29% said the police,

iii) 11% said the Secretary of State,

iv) 6% said the judiciary,

v) 6% said others.

d) 85% agreed with the statement that a set of rules should be developed for all marchers from both traditions,

e) well over 90% of all respondents said that civil disobedience would not be justified either if a contested parade was allowed to go ahead or if a parade was re-routed or banned,

f) on parades through areas of a different tradition, respondents said that marchers should regulate their conduct, eg 66% said that no "Blood & Thunder" bands should be allowed and 74% thought that only local marchers and their band should be allowed; just 30% supported the view that all marchers and their bands should be allowed.

## **The Main Events of 1996**

23. Our terms of reference required us to have regard to "the particular experience of 1996". It was not our remit to conduct a detailed inquiry into those events since our task is to look to the future.

24. Between 1989 and 1994 few parades were overtly contentious. However some of the locations that hit the headlines last year were also controversial in 1995. They included several parades on the Ormeau Road in Belfast, the "stand-off" at Drumcree parish church and the Garvaghy Road on the outskirts of Portadown and a protest at the Apprentice Boys of Derry parade on 12 August. In addition several Republican parades led to protests or were re-routed. The events of 1995 and perceptions of them influenced the lead in to the annual "marching season", from April to September, in 1996.

25. There was controversy initially in 1996 over Loyal Order parades in Belfast, on 8 April on the Ormeau Road, and on 21 June in North Belfast. Despite a series of separate meetings by various parties with the Portadown District Orange Lodge and the Garvaghy Road residents' representatives, no accommodation was reached before the District's annual church parade to Drumcree on 7 July. Although the police served a notice on the organisers that the parade should not pass the church, the Orangemen remained there, intending to stay until the police decision was reversed. Large numbers of supporters joined them over the following four days. Elsewhere in Northern Ireland there was widespread civil disorder as members of the Order and sympathisers blocked many roads; other criminal acts were committed, including the murder of a Catholic taxi driver. Further efforts to reach an agreement were unavailing, and the Chief Constable eventually concluded that the parade should be allowed to proceed down the Garvaghy Road on 11 July. Protesters were removed from the road.

26. The reversal of the Chief Constable's initial decision and the police action to clear the road were widely criticised. Serious disorder occurred, especially in Nationalist areas of Belfast and Londonderry. In the rioting, one civilian was killed, 8,000 petrol bombing incidents were recorded and the police fired over 6,000 plastic baton rounds.

27. On 12 July, an Orange Order parade was permitted along the lower part of the Ormeau Road (the only one allowed in 1996), in the midst of police deployment which was perceived by many, including residents, as a day-long "curfew".

28. Trouble was anticipated at the Apprentice Boys of Derry annual Relief parade in Londonderry on 10 August. Again, discussions failed to reach local agreement. The Secretary of State, having received advice from the Chief Constable, and acting under Article 5 of the 1987 Order, prohibited all parades along a section of the city's walls for some three weeks.

29. There were disputes at a number of other locations in July, August and September, though local agreement was reached through mediation in Bellaghy prior to a Royal Black Institution parade on 31 August. Associated problems involved continuing local



boycotts of Protestant-owned businesses and a picket of a Catholic church in Ballymena.

30. The direct financial costs of the disorder of the summer have been estimated at over £30 million, in terms of:

\*extra policing costs,

\*criminal damage and injury compensation, \*damage from attacks on schools and other public property.

31. The drop in tourism is also estimated to have led to a direct revenue loss of a further £28 million.

32. We have noted the report by Her Majesty's Inspector of Constabulary which was published on 22 January following his review of the RUC last autumn. We believe that the adoption of the thrust of his recommendations relating to public order and the use of plastic baton rounds and visible commitment by the RUC to even-handed policing would contribute to a positive solution.

### **Parading Organisations**

33. Many groups in Northern Ireland organise processions and public meetings. Our Review has naturally focused - though not exclusively so - on parades by Loyalist and Nationalist organisations. The three largest Loyal Orders are:

\*The Orange Order,

\*The Royal Black Institution,

\*The Apprentice Boys of Derry.

34. In Chapter 3 of our Report we describe these groups in some detail, and other Loyal parading organisations. Although an individual can be a member of all three, and many belong to two, the aims and structures of each are different. The Orange Order - the largest - has, we understand, around 70-75,000 members. It was formed in 1795.

35. The Loyal Orders organise different types of parade:

\*main demonstrations, eg that of the Orange Order on 12 July,

\*"feeder" parades - local lodges going to and returning from larger parades,

\*church parades,

\*local parades.

36. There is less of a parading tradition in the Nationalist part of the community. The Ancient Order of Hibernians still organises a number of parades, and other parades are arranged for political reasons, such as support for prisoners.

37. Our society has a vibrant musical tradition. There are at least several hundred bands across Northern Ireland which take part in parades - not exclusively Loyalist ones. They range from the highest quality competition bands to so-called "Blood & Thunder" bands. Although only a small proportion are directly associated with the Loyal Orders, there are an increasing number of band parades, often of 20 or 30 bands at a time. These are not arranged by the Loyal Orders but by the local band.

38. The many other groups which hold processions or public meetings include:

\*Trade Union bodies,

\*Church-based organisations,

\*Youth-based groups,

\*The British Legion and other commemorative bodies.

39. The RUC have kept statistics on the number and type of parades since 1985. The figures are:

40. The RUC also keep figures showing what happened in respect of those parades:

## **The Legal and**

### **Human Rights Framework**

41. The law on processions and public meetings in Northern Ireland has developed over a number of years, broadly in line with the approach in the rest of the United Kingdom. Most of the current Northern Ireland legislation is contained in the Public Order (Northern Ireland) Order 1987.

42. The main provisions of the 1987 Order are set out in full in our Report, at Appendix 2. The critical provisions for the conduct of processions and open-air public meetings are as follows:

a) Notification (Article 3)

At least seven days advance notice of processions, though not of open-air public

meetings, must be given to the police where reasonably practicable. This requirement would apply also to a counter-demonstration involving a procession. Notification must include the following information:

\* date, time, route and destination of the

procession,

\* numbers participating,

\* number of bands accompanying it,

\* arrangements for its control and the identity of the organiser.

Specified exceptions apart, failure to give due notice is a criminal offence.

#### b)Conditions (Article 4)

A senior police officer may impose various conditions on a procession or on an open-air public meeting, such as a change of route, or restrictions on numbers or duration, if he reasonably believes that:

a)it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or

b)the purpose of the organisers is to intimidate others.

Both organisers and participants are guilty of criminal offences if they fail to comply with police conditions or directions.

#### c)Prohibition (Article 5)

In addition, the Secretary of State has power to prohibit, ie ban, any or all processions or open-air public meetings in an area or place for up to 3 months, on information from the Chief Constable or for some other reason.

As well as the criteria referred to in the previous sub-paragraph, the Secretary of State may use his power if he is of the opinion that otherwise undue demands would be made on the police or military forces. He is required to consult the Public Order Committee of the Police Authority wherever practicable.

43. There is a wide range of offences, both in the 1987 Order and elsewhere, which cover potentially criminal actions of organisers, participants and protesters.

44. The Northern Ireland courts have, in cases of judicial review of police decisions under Article 4, been concerned essentially with issues of procedural regularity or irregularity. The courts will not substitute their judgement on the substance of the

decision for that of the police. Neither the courts nor the police have any powers to look beyond the criteria set out in the 1987 Order, eg to assess the wider impact that a planned procession may have on relationships within the community.

45. We have looked too at the legal framework in some other countries, though we found no precise analogue. The Constitution or the general law in many countries explicitly recognises the right of peaceful assembly. Legal provision is usually made for control by the authorities when disorder is feared, though in some countries local councils play a larger role in this regard than in most of the United Kingdom, or indeed in the Republic of Ireland. However in Scotland local authorities rather than the police make the decision on whether to impose conditions on, or prohibit, a contentious notified procession. In the United States the rights to freedom of speech and peaceful assembly are protected virtually without regard to the content of what is being expressed or the object of the protest or assembly. The South African legislation, recently brought into force, emphasises negotiation prior to contentious processions.

46. We knew from the outset of our work that an analysis of rights would be important. Some submissions suggested that what is sometimes rather inaccurately described in Northern Ireland as the "right to march" was predominant, while others put the proposition that what some have described as being a "right for residents to withhold consent" for a parade to proceed should be paramount. A third group of submissions - the largest - argued that a balance must be struck between competing rights.

47. We have looked in particular at the European Convention on Human Rights and the United Nations International Covenant on Civil and Political Rights, which the United Kingdom Government has signed. It is clear from the documents that there is a right of peaceful assembly. This right, on which is based the "right to march", while important is not absolute. It is subject to limitations which are to be found both in the international documents and in the general law to protect the rights and freedoms of others or for the prevention of disorder or crime. The important rights of residents, while less clearly stated, can nevertheless be inferred from the same sources; but they again are not absolute.

48. It is clear that, since the rights of neither group are absolute, our proposals for legislative and other changes must provide for reasonable proportionality in the balancing of those rights. In a democratic society this may mean that some people - potentially of any background or tradition - may have to put up with things that they would prefer did not happen.

### **Our Main Recommendations**

49. In the course of our work we drew up five criteria against which to test our proposals:

\*any new arrangements should assist the search for accommodation and reinforce the

rule of law,

\*new arrangements should allow for the rights of marchers, residents and the wider community to be accommodated,

\*roles and responsibilities should be clarified, providing greater transparency,

\*our proposals should be proportionate to the problem, avoiding unnecessary restrictions and costly, bureaucratic processes,

\*they should have the objective of achieving greater consistency in decision-making and, where practical, an accommodation in individual locations over a longer time frame.

50. We identified a number of **principles** which should underpin the community's future approach to parades and protests:

i) the right to peaceful free assembly should (subject to certain qualifications) be protected,

ii) the exercise of that right brings with it certain responsibilities; in particular, those seeking to exercise that right should take account of the likely effect on their relationships with other parts of the community and be prepared to temper their approach accordingly,

iii) all those involved should work towards resolution of difficulties through local accommodation,

iv) in the exercise of their rights and responsibilities, those involved must not condone criminal acts or offensive behaviour,

v) the legislation and its application must comply with the Government's obligations under international law, and provide no encouragement for those who seek to promote disorder,

vi) the structure for and process of adjudication of disputes over individual parades should be clear and applied consistently with as much openness as possible,

vii) any procedures for handling disputes over parades and the enforcement of subsequent decisions should be proportional to the issues at stake.

51. We have considered carefully whether the best way ahead is the establishment of a new, independent body which would play a major role in the resolution of disputes over parades and would consider whether any conditions should be imposed under the

law on proposed contentious parades or protests. Some of the arguments in favour of such a body are:

- \*it is not right that the police both make the decision in relation to a contested parade and then enforce it,

- \*the present arrangements allow little or no scope for consultation and there is no requirement for wider publicity of parades or of any conditions applying to them,

- \*the present criteria against which the police judge whether to impose conditions effectively focus on public order and allow little or no account to be taken of the impact of a parade on relationships within the community - a factor which a body other than the police would be better placed to assess,

- \*under the present system, there is a vacuum which other parties such as mediators, elected representatives or church people have been trying to fill,

- \*many people believe that, in the absence of local accommodation, the decision should be taken by an independent body; this was the most popular choice overall (and with both Catholic and Protestant respondents) in the Northern Ireland-wide survey that we commissioned.

52. Against those arguments, the following points were made:

- \*the creation of a new body could reduce the incentives to reach local accommodation,

- \*it could give undue weight to the views of one side, to the detriment of the other,

- \*it could have implications for the operational independence of the police,

- \*it would entail additional expense, and it could be difficult to find the right people to serve on such a body.

53. After weighing up all the arguments, we have concluded that there is a need for a new independent body - a "**Parades Commission**" - that would combine the following roles:

- \*education, ie working for greater understanding at the local level,

- \*promoting and facilitating mediation and the search for local accommodation in respect of contentious parades,

- \*if mediation fails, considering what conditions might be imposed in respect of individual parades where such conditions are merited under the statutory criteria, and,

after consultation, issuing determinations,

\*keeping under review and amending the Code of Conduct that we also propose,

\*arranging for contentious parades and protests to be monitored.

54. The Parades Commission and its members will need widespread acceptance, self-confidence and the ability to work together. We recommend a chairperson with suitable skills - possibly, but not necessarily, with a legal background - and four other members, to be appointed by the Secretary of State for renewable terms of three years.

55. The first role of the Parades Commission should be to encourage greater understanding at the local level of the perceptions of the two sides of the community in respect of parades and their significance. If rights and responsibilities are more clearly understood, there is a greater chance that restraint will be exercised, the frequency of disputes lessened and the prospect of reaching local accommodation increased.

56. Mediation can play a crucial role in helping to resolve potential conflicts. The Commission will have a formal role in promoting mediation, in ways that it deems appropriate, in co-operation with other bodies. The Commission will only become involved in the next of its roles, ie assessing individual parades and protests under the statutory criteria, if mediation has not been successful.

57. We do not believe that the Commission should have to assess every proposed parade - there were at least 3160 in 1996 and the vast majority passed off entirely peacefully. Instead, we recommend three ways in which potentially contentious parades should become subject to its jurisdiction:

\*referral by the police,

\*at the Commission's own initiative,

\*as a result of public representations (for which we suggest there might be some appropriate threshold).

58. Where local accommodation has not been reached, it will be the responsibility of the Commission, in place of the police, to determine the matter and whether conditions should be imposed on a parade. In reaching its conclusion, we anticipate that the Commission will want to hear from a wide range of interested parties, including the parading organisation, the police, the local community and other groups. This category could include elected representatives, local clergy, business people, community workers and others. The Commission should be entitled to take account of the parties' approach to reaching a local accommodation.

59. The Commission should be empowered to issue determinations for one or more

parades in an area, to do so where appropriate over a period longer than one year, and to review its own determinations. Ideally the "business" of the Commission should steadily reduce over the years. Its determinations would be subject to judicial review in the Northern Ireland courts. We considered carefully whether the Chief Constable or the Secretary of State should be able to overturn a determination of the Commission. We are very conscious of the principle of the operational independence of the Chief Constable - a principle which we believe it is important to sustain. We recommend that the appropriate course of action is for the Chief Constable, if he judges that exceptionally the Commission's determination has to be reviewed, to advise the Secretary of State that he (the Secretary of State) should reconsider it, which the Secretary of State should have the power to do on the same basis as the Commission.

60. Against the possibility of the determination of the Commission being challenged either by those associated with a planned parade or by protesters in such a way that there is a serious threat to public order, we have concluded that the police should retain their present power to intervene on public order grounds when a parade is assembling or proceeding. Although there are other sanctions for defiance of the authority of the Commission, we have concluded that a new offence should be created to penalise those who set out through force of numbers or threat of disorder to contravene the Commission's determination.

61. Currently parade organisers must give the police at least 7 days notice of a planned parade. We believe this is not enough. It provides little or no opportunity for information to be made available to interested parties and for there to be discussion about contentious parades, with or without external mediation. It would provide the Commission with no chance to consult the organisers, police and interested parties. However, as the Commission will be able to initiate discussion with interested parties at any time, we see no need for a radical extension of the current notice period. We recommend that the required notice should be extended to a minimum of 21 days, though the law would still exceptionally permit shorter notice of a parade where it was genuinely not practical to meet this requirement. We have also suggested that the Commission should consider publication of notices of those parades which may merit wider local publicity. While we concluded that there was no present need to apply a notice requirement to open-air public meetings, we believe that the Commission should be able to have regard to planned open-air public meetings, where these come to its notice.

62. Under Article 4 of the 1987 Order, a senior police officer may impose a range of conditions on a procession (or an open-air public meeting) if he reasonably believes that:

a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community; or

b) the purpose of the persons organising it is the intimidation of others with a view to



compelling them not to do an act they have a right to do, or to do an act they have a right not to do.

63. We believe these statutory criteria are deficient in that they:

- \*put a premium on disorder or threats of it,
- \*do not take account of the wider impact on relationships within the community.

In order to achieve the objective that the wider impact of a proposed parade on relationships within the community would be considered by the Parades Commission, we have concluded that the statutory criteria should be appropriately extended.

64. Our terms of reference required us to consider the case for the introduction of codes of practice. The arguments for a code include:

- \*the practical help it would give parade organisers, the Commission, the police, and the community,
- \*the evidence that while self-regulation by parading organisations has been helpful it has not been sufficient, and additionally there is no code for protesters,
- \*the widespread support for codes both in the evidence submitted to us and in the Northern Ireland-wide survey - 86% of all those questioned.

65. We have identified three different documents all of which we believe should be drawn up and published by the Parades Commission:

- a) **guidelines** setting out the factors which the Commission will take into account in determining whether a parade be made subject to conditions,
- b) the **procedure** to be followed by the police, the Commission, and organisers of parades, open-air public meetings and protests,
- c) a **Code of Conduct** governing the behaviour of participants and protesters at a particular event.

The Code of Conduct should, we concluded, have a statutory basis.

66. The **guidelines** would cover four main areas:

- \*physical location and route,
- \*impact on the local community,
- \*the purpose of the parade,
- \*features particular to that parade.

67. Consideration of the physical location would include, in our view, the principle that town and city centres should be open to all legal parades - villages may require individual consideration depending on their size. While main roads may often be suitable for parades, this should be a significant rather than a determining factor.

68. Impact on the local community would include the likelihood of disruption to traffic, trade and other communal activities as well as the impact on residents and on relationships within the community. The frequency of parades in the location would also be a factor of which account might be taken.

69. We recognise that there are many different purposes of parades. The Commission should take the stated purpose into account. Features of a parade may vary widely too, eg the numbers anticipated, whether the parade is long-standing and the record of the organisers in stewarding previous events. The Commission may have regard to all of these factors.

70. The **procedures** should cover the following:

- a) how notice of parades and objections to them are to be given, including publicity,
- b) how the police respond after receiving the notice,
- c) how the Commission is to be involved in consideration of individual processions and open-air public meetings,
- d) how the Commission may discharge its responsibilities in general terms,
- e) what is required of organisers in the run-up to the event itself,
- f) what is expected of protesters.

71. The **Code of Conduct** would cover the behaviour of:

\*participants,

\*protesters,

at any parade. It would be for the Parades Commission to draw it up, (though we suggest that the Government might wish to initiate the preparation of a draft Code for consultation before the Commission was appointed), to keep it under review, and to propose amendments.

72. We have not attempted to prepare a Code in final detail, though an illustration of a potential Code for parades and protests is contained in Chapter 13 of the Report. We

believe it should cover at least:

- \*the responsibilities of participants and protesters,

- \*stewarding arrangements,

- \*acceptable and unacceptable behaviour, including control over alcohol,

- \*displays, e.g. flags or banners,

- \*bands and music.

73. The Parades Commission should be empowered to take account of breaches of the Code in considering subsequent disputed parades. It will require parading and protesting organisations to adopt the Code or have their own which satisfies the Commission.

74. We also considered the case for a range of other changes to the relevant legislation. Our views are set out more fully in Chapter 14 of the Report, but it is appropriate to highlight two issues here.

75. Under Article 5 of the 1987 Order, the Secretary of State may ban one or all processions or open-air public meetings for a period up to 3 months. This provision has only been used once since 1987, to ban access to a section of Londonderry's historic walls for a three-and-a-half week period in August 1996. We have concluded that this is a necessary power and should remain.

76. Article 6 of the 1987 Order allows the Government to introduce legislation for the registration of bands. We believe there is a strong case for doing so. We think that the best way may be through the courts, and we have set out the main features of such a scheme. We recommend that the Government should now give active consideration to the introduction of a registration scheme.

77. In addition, we make the following detailed recommendations:

- a) The form in which notice of a parade should be given to the police should be prescribed, and the number and identity of bands must be stated,

- b) The Government should review whether (i) the present reference to intimidation in Articles 4 and 5 is sufficiently broad to encompass the circumstances of parades and protests, (ii) the present offence of breaking up parades and meetings is wide enough,

- c) Parade organisers should not be required to make extra financial contributions,

d) Greater powers should be conferred on the police, on a Northern Ireland-wide basis, to enable them to take action to prevent alcohol being taken to, or consumed at, processions or public meetings,

e) The RUC should keep more detailed information on parades.

78. Diagrams which illustrate alternative scenarios in the overall process are set out in Appendix 1 of this Executive Summary. The summary of our recommendations, as set out in Chapter 15 of our Report, follows as Appendix 2.

### **Finale**

79. We have been concerned throughout our work to avoid creating an Orwellian structure that bears down oppressively on the rights of groups and individuals. Parades and protests provoke passion. Our proposals are designed to provide all the interested parties with mechanisms and opportunities to work towards mutual understanding and local accommodation. We would be delighted to look back in five years and wonder why it was felt necessary to propose such major changes in legislation that addressed the problems of public order rather than promoting the community benefits of shared celebration, in the light of the subsequent positive development of Northern Ireland society. It might even be that by then the overall political situation and inter-communal relations will have stabilised to the extent that some of the structures we recommend could be dismantled. We hope so, but the choice lies in the hands of the people of Northern Ireland.

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## **Summary of Recommendations**

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This appendix lists all the recommendations made in the Report of the Independent Review of Parades and Marches. The recommendations are listed in the order in which they appear in the Report, with a reference to their location in the Report.

1 We recommend that the following fundamental principles should form the basis for the development of processes and procedures to address the issue of conflict over parades:

a) the right to peaceful free assembly should (subject to certain qualifications) be protected,

b) the exercise of that right brings with it certain responsibilities; in particular, those seeking to exercise that right should take account of the likely effect of doing so on

their relationships with other parts of the community and be prepared to temper their approach accordingly,

c)all those involved should work towards resolution of difficulties through local accommodation,

d)in the exercise of their rights and responsibilities, those involved must neither commit nor condone criminal acts or offensive behaviour,

e)the legislation and its application must comply with the United Kingdom's obligations under international law, and provide no encouragement for those who seek to promote disorder,

f)the structure for and process of adjudication of disputes over individual parades should be clear and applied consistently with as much openness as possible,

g)any procedures for handling disputes over parades and the enforcement of subsequent decisions should be proportional to the issues at stake.

### **Chapter 11, para 19**

**2**We recommend the creation of an independent body that would:

a) allow interested parties to put their views forward about proposed parades,

b) encourage them to settle difficulties locally, and where that proved impossible,

c)itself come to a view on what, if any, conditions should be imposed on contentious parades after an appropriately transparent process of examination of all the relevant issues against the background of reformed legal provisions.

### **Chapter 12, para 21**

**3**We recommend that the new body should have the following remit:

a)education, ie working for greater understanding at the local level,

b)promoting and facilitating mediation and the search for local accommodation in respect of contentious marches,

c)if mediation fails, considering what conditions might be imposed in respect of individual parades where such conditions are merited under the statutory criteria, and, after consultation, notifying the interested parties of its conclusions,

d)keeping under review and amending the Code of Conduct that we shall also propose, and

e)arranging for contentious parades and protests to be monitored.**Chapter 12, para 29**

**4**We recommend that the new body should be called the Parades Commission.

### **Chapter 12, para 30**

**5**We recommend that the Parades Commission should be appointed by the Secretary of State and should consist of a chairperson and four other members.**Chapter 12, para 36**

**6**We recommend that the Parades Commission should contribute to the development of mediation through establishing a register of groups and individuals who can act as mediators, and itself work with other bodies in practical ways to support mediation.

### **Chapter 12, para 47**

**7**We recommend that there should be three means by which cases are brought to the Parades Commission's attention:

a)first by the police,

b)second by the Parades Commission itself, and

c)third by the public,

and that the Government should consider the level of public representation which should be required under (c) above, to trigger action by the Parades Commission through that route.

### **Chapter 12, para 61**

**8**We recommend that the period for the submission to the police of notice of a parade should be extended from not less than 7 days to not less than 21 days.**Chapter 12, para 69**

**9**We recommend that the legislation should require parade organisers who give notice to the police less than 21 days before the proposed parade to state the reason why the notice was not given in time.

### **Chapter 12, para 70**

**10**We recommend that there should not be different periods of notice for different categories of parade.**Chapter 12, para 73**

**11**We recommend that organisers should not be required to pay a fee when submitting the notice of a planned parade.**Chapter 12, para 75**

**12**We recommend that the Parades Commission keeps under review the potential difficulty of significant clashes between parades and open-air public meetings, and makes recommendations for the introduction of a notice regime for open-air public meetings if the situation developed so as to cause concern or to interfere with the conclusions of the Parades Commission.**Chapter 12, para 81**

**13**We recommend that the Parades Commission addresses the issue of publication of notices of those parades which may merit wider local publicity and whether it would be right for the Parades Commission, rather than the organisers, to pay for such publication. **Chapter 12, para 86**

**14**We recommend that:

a)the responsibility for reaching conclusions in relation to disputed parades should in future be that of the Parades Commission rather than the RUC,

b)the statutory criteria for determining whether conditions should be imposed on a planned parade which are now set down in Article 4(1) of the Public Order (Northern Ireland) Order 1987 should be amended to require that, in addition to the existing criteria, consideration is given to the wider impact of the parade on the relationships within the community,

c)the statutory criteria set down in Article 5 relating to the exercise of the Secretary of State's powers over parades (but not open-air public meetings) should be similarly amended. **Chapter 12, para 94**

**15**We recommend that the Parades Commission should be empowered to reach and promulgate conclusions in relation to one or more parades in an area and to do so where appropriate over a period longer than one year. **Chapter 12, para 101**

**16**We recommend that the Parades Commission should have the power to review its earlier conclusions.**Chapter 12, para 102**

**17**We recommend that the Parades Commission takes appropriate steps to make known its conclusions in any particular case. **Chapter 12, para 103**

**18**We recommend that the Parades Commission should be empowered:

a)to embody its conclusions in determinations which everyone would be obliged to follow,

b)in such determinations to impose conditions as wide as those which can now be imposed by the police,

c)to have regard to past compliance with the Code of Conduct (which is dealt with in Chapter 13) and to prescribe conditions which must be complied with by reference to the Code. **Chapter 12, para 111**

**19**We recommend that legislative provision is made so that:

a)if the Chief Constable has reason to be seriously concerned about a determination of the Parades Commission ahead of a proposed procession, he may furnish the Secretary of State with the information which gives rise to his concern,

b)it would then be open to the Secretary of State to reconsider the Parades Commission's determination under the same statutory criteria as that body had applied and to issue a revised determination,

c)before the Secretary of State issued a revised determination, he should wherever practicable consult both with the Parades Commission and with the relevant committee of the Police Authority.**Chapter 12, para 115**

**20**We recommend that in the extreme circumstances of the determination of the Parades Commission being defied, the police should retain the power to intervene on public order grounds, as a parade is assembling or proceeding, as the Public Order (Northern Ireland) Order 1987 currently provides.**Chapter 12, para 124**

**21**We recommend that a new offence should be created to penalise the conduct of individuals who set out deliberately through force of numbers or threat of disorder to contravene the legal determination of the Parades Commission, in defiance of its authority.**Chapter 12, para 126**

**22**We recommend that the Parades Commission should submit a publicly available annual report to the Secretary of State.**Chapter 12, para 129**

**23**We recommend that:

a)guidelines should be prepared setting out the factors which the Parades Commission will take into account in determining whether a parade be made subject to conditions,

b)the factors should include:

\*the physical location and the route of the parade,

\*the impact of the parade on the local community,



\*the purpose of the parade,

\*features particular to that parade,

\*the approach of the interested parties to reaching a local accommodation,

c)the Parades Commission should be required in the legislation to prepare and promulgate the guidelines in future, subject to the Secretary of State's approval,

d)in view of the urgency, the Government may wish to consider preparing draft guidelines which could be issued for public consultation ahead of the establishment of the Parades Commission.

### **Chapter 13, para 34**

**24**We recommend that one of the early tasks of the Parades Commission is to prepare public guidance on the procedures, not just that it will itself follow, but also those that are to be followed by the police and the organisers of processions, open-air public meetings and protests.**Chapter 13, para 36**

**25**We recommend that a Code of Conduct should be introduced covering the behaviour both of participants in a parade and of protesters.

### **Chapter 13, para 40**

**26**We recommend that the Parades Commission should take ownership of the Code of Conduct, keep it under review and propose such amendments as it sees fit.**Chapter 13, para 41**

**27**We recommend that the Parades Commission's Code of Conduct should have an appropriate statutory basis.**Chapter 13, para 46**

**28**We recommend that the Parades Commission should, in respect of a parade or protest, have the power:

a)to approve an organisation's own code of conduct where it is satisfied that such a code meets the requirements of the Commission's statutory Code, and to require that organisation to comply with it, and

b)where it is not so satisfied to require the organisation to adopt and comply with the Commission's statutory Code.**Chapter 13, para 48**

**29**We recommend that the Parades Commission should be required to address the question of monitors.**Chapter 13, para 51**

**30**We recommend that the Parades Commission has regard in considering any parade proposal to any evidence of previous breaches of the Commission's or of an approved Code of Conduct whether by participants or protesters.**Chapter 13, para 52**

**31**We recommend that the Parades Commission should pay close attention to stewarding and take such steps to improve standards of stewarding in both parading and protesting organisations as it deems necessary.**Chapter 13, para 54**

**32**We recommend that the police apply the guidelines proposed by the Parades Commission to open-air public meetings where appropriate, and that they give serious consideration to preparing a code of conduct in relation to such meetings similar to that proposed for parades by the Parades Commission.

### **Chapter 13, para 55**

**33**We recommend that the written notice of an intention to hold a procession should be "on a prescribed form and signed by the organiser" and that Article 3 of the 1987 Order be amended accordingly.

### **Chapter 14, para 3**

**34**We recommend that, in order that the bands taking part in a parade be identified at an early stage, the words "where reasonably practicable" and "likely" be deleted from Article 3(2)(a) of the 1987 Order.

### **Chapter 14, para 4**

**35**We recommend that no substantial amendment of Article 4(1)(b) of the 1987 Order is necessary, but that the Government should consider revision of the terminology of the provision.**Chapter 14, para 10**

**36**We recommend that no change to Article 5 of the 1987 Order is necessary, other than the amendment to the statutory criteria proposed in recommendation 14.

### **Chapter 14, para 15**

**37**We recommend that the Government gives further consideration to the effectiveness of Article 7 of the 1987 Order and to any need for amendment.

### **Chapter 14, para 21**

**38**We recommend that the Government should, in consultation with the appropriate authorities, give active consideration to the introduction of a registration scheme for

**bands. Chapter 14, para 41**

**39**We recommend that it would not be appropriate to require organisers of parades to post bonds or to provide proof of insurance cover.

**Chapter 14, para 45**

**40**We recommend that no steps be taken to seek a contribution to policing costs from parade organisers or protesters. **Chapter 14, para 49**

**41**We recommend that fines not be imposed by the Parades Commission for breaches of the Code of Conduct.

**Chapter 14, para 52**

**42**We recommend that the provisions in Great Britain for control of alcohol being taken to sporting events be extended to Northern Ireland in respect of those travelling both to parades and open-air public meetings.

**Chapter 14, para 55**

**43**We recommend that the RUC record information on parades in more detail, in particular identifying the organisation which holds the parade and the purpose of the parade. **Chapter 14, para 56**

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