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QUB Report 'Transforming Conflict: Flags & Emblems'

1. Your e-mail of 29 July 04 sought comment on the above report on flags and emblems and requested a short section on Roads Service's actions to deal with the problem. I apologise for the delay in replying but Roads Service has recently been discussing the issue internally.
2. As you will be aware from our recent meeting with PSNI, OFDFM are seen as being in the lead for Government. Roads Service preference for steps that would improve the situation are:
 - a. Secure agreement on a regional protocol to govern the display of flags and emblems, with a mechanism for action in default. A policy or legislation that prohibits the display of all flags at all times is unlikely to be successful.
 - b. Secure high-level political engagement of the main NI parties, where they promote the idea that flags should be flown only at certain times, not all year round, and should not be flown to extend territory or as a provocation (otherwise the effect is disrespectful to the flag and community).
 - c. Give responsibility to District Councils under their Community Relations or Community Safety duties to take the lead in developing local protocols in relation to the display of flags – period and locations for display etc. There can be no one-size-fits-all approach.
 - d. Establish a multi-agency arrangement under the leadership of the District Council so that action can be taken in default. Roads Service would be prepared to remove flags from lampposts, with PSNI also being involved to ensure public order.
3. Roads Service's powers and duties on this issue are not explicitly set out in our legislation. The Roads (NI) Order 1993 provides:

Art 87(1) "Any person who without lawful authority-

- (a) paints or otherwise inscribes or affixes any picture, letter, sign or mark; or*
- (b) displays any advertisement,*

upon the surface of a road or upon any structure or other works in or on a road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale" and

Art 87(2) "Where any person contravenes paragraph (1), the Department may (whether or not any proceedings are instituted for an offence under that paragraph)-

- (a) remove anything painted, inscribed, affixed, or displayed in contravention of paragraph (1) and make good any damage done to the road or to the tree, structure, or other works in question; and*
- (b) recover from that person any expenses thereby reasonably incurred."*

4. The Roads Order does not specifically make it an offence to attach flags or bunting to lampposts. However in 1999, the Departmental Solicitor gave Roads Service advice that "the Department would not require specific powers in the Roads (NI) Order 1993 to remove flags from street lighting columns. The Department's functions, duties and responsibilities in relation to street lighting would be sufficient to enable it as the owner of the street lighting columns to remove any flags from the columns."
5. Roads Service does remove material from lampposts that has been attached illegally or without approval and is a danger to road users e.g. obscuring a sightline, obstructing or endangering the passage of road-users, or compromising the structural stability of a lighting column. In instances where there is no such danger, Roads Service seeks to remove such material only with the advice of PSNI and with strong local support. Experience shows that acting without local support only leads to proliferation and may put at risk the safety of the operatives removing the material. Although the threat to workers can be implied, it can also be real. In 2001 a street lighting electrician was assaulted by a gang in Carrickfergus and his van damaged while removing an unauthorised electricity power tap from a street lighting column.
6. There is also the question of resources. Roads Service's priority is to maintain the roads network to preserve the asset and ensure the safety of road users. With budget constraints it is difficult to divert resources to activities that are not of immediate benefit to the infrastructure. It should be borne in mind that for the safety of road users, Roads Service must also clear and repair road and footpath surfaces after bonfires. And there is a recurrent demand to remove graffiti from Roads Service underpasses such as City Airport and Cairnshill Road, Newtownbreda.
7. This year Roads Service has kept a record of the actions it has taken in response to complaints about flags etc. It shows a significant amount of work with the community at local level throughout the region. An example of successful Roads Service partnership with the Council and the voluntary sector was the removal of paint from lampposts and kerbs in early 2004 as part of the

Lower Shankill Community Forum's award-winning 'Shankill Clean-up' campaign. Another example where Roads Service staff had extensive consultations about flags with PSNI this year is the Carnmoney Road Newtownabbey, where Union flags were flown provocatively near the local chapel. In the event flags were erected and removed 3 times at the chapel by locals from the different communities; eventually tension subsided and Roads Service will endeavour to remove the remaining flags after the marching season.

8. By contrast, Roads Service was unable to remove sectarian graffiti and paramilitary flags in Ballygowan this July because of the risk to its workers. Another difficult location was the Belsize Road in Lisburn.
9. Meanwhile, I have asked DRMs to do what they can in relation to the removal of flags (particularly tattered flags and the accompanying plastic ties) from streetlights on main through routes, from September onwards. We will though be taking a softly, softly approach.
10. In summary and as requested, an additional short section for the QUB report (paragraph 6.26) is:

The DRD(NI) Roads Service responsibilities include -

- road and footpath maintenance
- improvement of the road network
- traffic management and information
- street lighting
- public car parking
- adoption (i.e. taking into public ownership) of roads built by private developers

Roads Service manages the majority of public roads and footpaths in NI, though some are the responsibility of the Housing Executive or are still unadopted. Roads Service is also responsible for most road bridges and underpasses. The powers of Roads Service are laid down by the Roads (NI) Order 1993. Article 87 of the Roads Order makes it an offence to attach unauthorised signs and adverts to lampposts, but does not specifically mention flags or bunting. However the Department's duties in relation to street lighting are perceived as sufficient to enable it as the owner of the lampposts to remove any flags. Roads Service does remove flags or attachments that pose a danger to road users e.g. obscure a sightline, obstruct the passage of vehicles or pedestrians, or compromise the structural stability of the lighting column. Where there is no such danger Roads Service seeks to remove such material only with the advice of PSNI and with strong local support. Experience has shown that acting without local support leads to a proliferation and may put at risk the safety of the operatives removing the material. Nevertheless, Roads Service takes its role in the community seriously and has worked in partnership with local representatives to safely remove many flags, and much graffiti and sectarian

paint throughout NI. From the start of 2003 to date, we have taken action in relation to over 50 occurrences, and in some cases each instance has required work in up to 10 streets.

11. I hope you find this of assistance. If you need any more information please contact Alan Houston or me.

David Orr