

review of marches and parades in scotland

Report of the Working Group on **Marches and Parades**
December 2006



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Chair's foreword

This report of the working group on marches and parades describes how all 38 recommendations in Sir John Orr's report 'Review of Marches and Parades in Scotland' – which was published in January 2005 – should be taken forward by local authorities, the police and the organisers.

The working group drew together the interests of various major public organisations:

- the Convention of Scottish Local Authorities;
- the Society of Local Authority Lawyers and Administrators in Scotland;
- the Society of Local Authority Chief Executives and Senior Managers;
- the Association of Chief Police Officers in Scotland;
- the Scottish Police Federation; and
- the Association of Scottish Police Superintendents.

The Scottish Executive also held talks with a number of organisations and took account of what they had to say on the proposals for changing the way that processions should be planned and managed. We, the working group, would like to thank everyone involved for their contribution in taking forward the recommendations in Sir John's report and I would personally like to thank all the members of the working group for their support and advice in finding workable solutions to all of Sir John's recommendations.

We would like to remind everyone involved in handling marches and parades that a vital part of the new process is about keeping the community informed of proposals to hold a march in their area. It's also about getting views from individuals, local businesses and community organisations and collecting their comments before making decisions. However, local authorities must remember that they have a duty to act in line with Article 11 of the European Convention of Human Rights (ECHR). As a result, any decision they reach after consulting the police that they need to place conditions on a procession, or that a procession should be prevented altogether, must be compatible with the right to freedom of assembly and association given under the ECHR.

Chair's foreword

You should read this report with the Scottish Executive's publication 'Review of marches and parades in Scotland – guidance for Scottish local authorities', which was issued under section 65A of the Civic Government (Scotland) Act 1982 at the same time as this report, and the process chart that goes with it. That guidance has been prepared as a source of advice and sets out all the main steps that local authorities should take through the process when considering whether to prevent processions or place conditions on them when carrying out their functions under Part V of the Civic Government (Scotland) Act 1982. We sent the guidance and process chart to all 32 Scottish local authorities, Scottish police authorities and organisations with an interest in marches and parades. It is available at: <http://www.scotland.gov.uk/Publications/Recent>.

Please read this report and the guidance. I am sure that the police authorities and the marching organisations will also find them helpful when examining their role in the new process.

A handwritten signature in black ink that reads "Alastair Merrill". The signature is written in a cursive style and is positioned above a long, horizontal, wavy line that serves as a decorative flourish or underline.

Alastair Merrill
Chair of the Working Group on Marches and Parades

Section 1

Introduction and information on how we took Sir John Orr's report forward

Introduction

1 The Scottish Ministers are not against the rights of organisations and individuals to continue to organise marches and parades, but they are aware that the effects of marches and parades had been causing considerable concern in some communities. As a result, they asked Sir John Orr, former Chief Constable of Strathclyde Police, to review the arrangements in place for marches and parades. Sir John's report 'Review of Marches and Parades in Scotland' was published in January 2005. You can see his report at:

<http://www.scotland.gov.uk/library5/society/rmpsm-00.asp>.

2 Sir John also arranged an attitude survey to make sure that he had views from the wider community. You can find the survey at:

<http://www.scotland.gov.uk/library5/society/rmpsv-00.asp>

Guidance for this report

3 The guidance, which you should read with this report, was formally issued by the Scottish Ministers to local authorities on 12 December 2006 under Section 65A of the Civic Government (Scotland) Act 1982. The guidance sets out the steps local authorities should take when considering whether to prevent processions or place conditions on them when carrying out their functions under Part V and outlines how they should consult community groups. The guidance also comes with a process chart which sets out the main steps that local authorities should take when considering notifications. In summary, the guidance:

- sets out the amended duties and powers given to local authorities in the Police, Public Order and Criminal Justice (Scotland) Act 2006;
- sets out the good practice that we expect them to introduce;
- provides a note of the main decisions they should take along the way towards reaching a decision;
- outlines options for consulting the community and raising awareness;
- summarises what they will be asked to provide for the report which is to be produced for the Scottish Ministers to show that local authorities are putting the new procedures into practice in a way appropriate to their circumstances; and
- provides examples of some standard forms and letters.

4 You can find the guidance and the process chart at:

<http://www.scotland.gov.uk/Publications/Recent>

Section 1: Introduction and information on how we took Sir John Orr's report forward

The organisations covered by this report

5 This report is mostly relevant to processions organised by large organisations such as the STUC, the Orange Order and so on, but the legal requirements in the Civic Government (Scotland) Act 1982, as amended, are relevant to all marches and parades in Scotland. In particular, removing exemptions (formerly section 62(6) of the 1982 Act) means that communities and local authorities will now have a full picture of all processions taking place in their areas.

6 We do not believe this change is difficult to deal with as many of the previously exempt organisations would have already been letting local authorities or the police know of their plans to hold a procession. And, depending on the nature of the event, they would contact them anyway to close a road or apply for a temporary licence (such as a public entertainment licence, a liquor licence, a street traders' licence and so on). As a result, there are processions, such as cavalcades, traditional common ridings and similar festivals, which should be less difficult for local authorities to consider and process.

7 We do not want to add too much paperwork to the process for these events and so local authorities should decide – in line with a system which keeps communities well enough informed – how much of the guidance in this report would be relevant. For example, local authorities may not need to hold a precursory meeting or have a risk assessment carried out by the organiser for these processions.

8 Local authorities may think there is a strong enough case to have some processions automatically excluded from the process for providing notifications. Paragraph 33 of this report and paragraphs 23 to 25 of the guidance for local authorities both provide details of how local authorities can apply for exemptions from the requirements of the Civic Government (Scotland) Act 1982.

How we took the Scottish Executive's work on processions forward

9 Sir John's report contains 38 recommendations which came forward following wide-ranging consultation. There was broad support for change and a lot of agreement about the changes that would be necessary. The main focus of the recommendations in Sir John's report is to professionalise and modernise the decision-making process for marches and parades to make sure that they are better run and organised and allow communities and local businesses to be better informed of what is going on in their area. The recommendations in Sir John's report have been taken forward in two ways, through:

- new laws in the Police, Public Order and Criminal Justice (Scotland) Act 2006 which amends Part V of the Civic Government (Scotland) Act 1982; and
- other methods (not linked to legislation) taken forward by this working group and approved by Scottish Ministers.

10 To help inform what should be amended in the Civic Government (Scotland) Act 1982, the Executive sent out their consultation document 'Supporting Police, Protecting Communities' in February 2005. You can find the consultation document at: <http://www.scotland.gov.uk/consultations/justice/sppcpl-00.asp>.

11 You can find the responses to the consultation document at: <http://www.scotland.gov.uk/Publications/2005/06/03105142/51436>

12 You can see the Police, Public Order and Criminal Justice (Scotland) Act 2006 on the following website. <http://www.opsi.gov.uk/legislation/scotland/s-acts2006a.htm>

Our role

13 We were set up on 30 March 2005, and are made up of members from the police and local authorities – **Annex D** of this report provides a full list of members. The Minister for Justice and officials from the Scottish Executive also met separately with key marching organisations to make sure that they were also involved in the process. We took their views on board and they are contained in this report.

14 Our role was as follows.
We will bring together local government, police authorities and the Scottish Executive to support the recommendations of the Review of Marches and Parades in Scotland and to help develop the legislation needed to put the other recommendations into practice. We will also consider the effect of putting the recommendations into practice and provide advice on these.

Definitions

'Permit to process'

15 Sir John Orr's report often refers to a 'permit to process'. The 'permit to process' is the document which local authorities should give to the organiser of a march or parade setting out some general information and confirming details such as the date, time and route of the procession and any other important information which they want to give.

Section 1: Introduction and information on how we took Sir John Orr's report forward

16 We understand Sir John's intentions but have decided that the term 'permit to process' could be misinterpreted as it could be mistaken to mean 'a licence' to hold a procession. That is not the purpose of the term 'permit' in this context. For that reason it is not appropriate to use that term. In the interests of clarity, we think that the term should be replaced with 'letter of confirmation' and so we use this term in this report rather than 'permit to process'.

Referring to the code of conduct in the letter of confirmation

17 We have provided a space in the standard notification form (see **Annex D** of the guidance for local authorities) for the organiser to sign a statement that they agree to follow the local authority's code of conduct, if available. This can also be reinforced in the letter of confirmation. If an organiser does not sign the form to agree to follow the code of conduct, that information will be relevant in deciding whether it is appropriate to make an order placing conditions on holding the public procession.

Disrupting the life of the community

18 We provide a description of what this new condition in the Civic Government (Scotland) Act 1982 involves in the guidance for local authorities.

Monitoring

19 Recommendation 7 of Sir John's report states that the Scottish Executive should make sure that effective monitoring arrangements are in place to show that local authorities and the police are putting the new procedures into practice in a way appropriate to their circumstances with a regular public report produced.

20 The Scottish Executive have discussed with the Accounts Commission and HM Inspectorate of Constabulary and met separately with COSLA to see what procedures might be put in place. Paragraphs 56 to 58 in section 3 of this report briefly set out how the monitoring process will work and paragraph 9 of the Guidance for local authorities outlines the monitoring arrangements that may apply.

You should now move on to read section 2 and section 3 of this report. You should read these sections together as they set out the processes which will apply to processions.

Section 2

The duties and powers of local authorities in the Police, Public Order and Criminal Justice (Scotland) Act 2006

Purpose

21 This section of the report sets out the legal changes that have been introduced on the back of Sir John's review. It explains the amendments made to the duties and powers that local authorities have in relation to public processions. The guidance for local authorities sets out in more detail how they will be expected to operate these new conditions. You should read this section with section 3 which sets out the steps to follow for the parts of the process which are not legal requirements. The guidance for local authorities also repeats some of what appears in this section and so you should note that there is some crossover between the two publications.

When the changes will come into force

22 The legal conditions for marches and parades are in Part V of the Civic Government (Scotland) Act 1982 (c.45) (henceforth referred to as 'the 1982 Act'). The Police, Public Order and Criminal Justice (Scotland) Act 2006 (the 2006 Act) was given royal assent (approval) on 4 July 2006. As shown in the chair's foreword, the conditions on marches and parades in sections 70 to 72 of Chapter 2 of the act will not come into force until 1 April 2007. This is because Ministers want to give local authorities, the police and the organisers enough time to consider the changes and to prepare for the new processes they will need to follow. The parts of this report which are not legal requirements (see section 3) will also not need to be in place until the new legislation comes into force.

23 With this in mind, local authorities should consider notifications received before 1 April 2007 against the existing conditions in the 1982 Act. It must consider notifications from 1 April 2007 against the new processes outlined in the 2006 Act, which amends the 1982 Act, and this report.

Main changes to the law

24 The changes in the 2006 Act amend a number of areas of the current law and are meant to:

- give local authorities the opportunity to take account of a range of issues and views when deciding whether it is appropriate to place conditions on the march;
- give local authorities, the police and organisers, a better opportunity for dialogue and more time for planning; and
- achieve a consistent approach for marches and parades across Scotland.

Section 2: The duties and powers of local authorities in the Police, Public Order and Criminal Justice (Scotland) Act 2006

Summary of the new conditions

25 The 1982 act has been changed to place the following duties on local authorities.

- The amount of notice that organisers of marches and parades need to give to local authorities of their intention to march is increased from seven days to 28 days. Local authorities can decide to waive this requirement in exceptional circumstances.
- The ability of local authorities to exempt marches and parades in their area from the requirements to give notice has been removed. Instead, exemptions will apply only to funeral processions organised by a funeral director and to any other processions shown in orders made by the Scottish Ministers. This will mean there will be uniform decisions on exemptions across the country.
- When deciding whether to prevent a march or place conditions on it (for example, about route or timings), a local authority can consider the likely effect the march will have on public safety, public order, damage to property and any disruption to the life of the community. Local authorities should also consider if the march may place too much of a burden on the police.
- If a march is proposed and it is the same or similar to a march held previously (for example, a yearly Orange Order march), a local authority, when considering whether to prevent the march or place conditions on it, can take account of:
 - the effect of the previous march on public safety, public order, damage to property and any disruption to the life of the community;
 - how far the previous march placed too much of a burden on police and other public services; and
 - how far people taking part followed any code of conduct or guidance issued.
- Local authorities have a duty to keep a list of processions that have been held in their area to allow the public to see which marches happen regularly and which are likely to happen in the future.

Interpreting the new processes

26 The text which follows provides some advice on how local authorities should adopt the range of new duties and powers. An explanation of each part of the new process appears under the boxed sections which contain the relevant recommendation in Sir John's report.

Notification period

Recommendation 1: Organisers should give 28 days' notification to local authorities and the police of their intention to hold a procession.

27 The notification period in section 62 of the 1982 Act has been extended in line with Sir John's recommendation that organisers must give 28 days' notice to local authorities and the police of their intention to organise a parade. The Scottish Ministers recognise that some organisations gave more notice than was needed, but take the view that extending the period of notice will generally give local authorities more time to consider notifications in more detail than may have been the case previously. The extension to the notification period will also allow local authorities more time to plan for the event and to inform and take the views of the community on what may be taking place in their area over the coming months.

Exceptions to the extended notification period

Recommendation 2: In certain circumstances, where processions are arranged in response to unforeseen events, the 28 days notification period should be waived and organisers should be able to give less notification.

28 In keeping with Sir John's recommendation, Section 62(5) of the 1982 Act has been amended but still allows local authorities the ability to decide not to enforce the notification period, if necessary. Ministers continue to expect that the notification period will not be enforced in exceptional circumstances, for example where an organiser wants to arrange a march in reaction to a recent decision or announcement (for example, if a factory is to close down).

29 Local authorities do not have to consult the community (for example, gather their views and take these into account) before deciding whether or not to enforce the notification period in relation to a procession. This is because the Scottish Ministers recognise that there may not be enough time in each case for local authorities to do so. However, when there is enough time to do so, local authorities should take steps to give communities and businesses as much warning as possible. While the Scottish Ministers have not laid down any particular method for how local authorities should publicise an order which they make, methods could include those described in paragraph 36 of the guidance for local authorities.

Section 2: The duties and powers of local authorities in the Police, Public Order and Criminal Justice (Scotland) Act 2006

Who should give notice of their intention to hold a procession?

Recommendation 3: All organisers should notify their intention to march to local authorities and the police.

30 Sir John's report points out that the provision in the 1982 Act which allows local authorities to exempt organisations from the notice process meant that they did not have the full picture of all the events that were taking place in their area. It also meant communities were not fully aware of some processions which might affect them.

31 As a result, the Scottish Ministers have inserted section 62(11b) into the 1982 Act to remove this inconsistency in approach by making sure all organisers (apart from funeral directors) give formal notice of their plans to hold a procession. Other exceptions can be added in an order made by the Scottish Ministers. You will find more advice on this in paragraphs 20 to 25 of the guidance for local authorities.

32 The Scottish Ministers consider that removing exemptions means that communities and local authorities will have a better picture of the processions that may be taking place in their area and can plan around them. As we said earlier in this report, we do not expect local authorities and the police to get involved in a bureaucratic operation to manage all marches. Many processions, including traditional local events, do not cause a disturbance and should be able to go ahead without local authorities placing restrictions on them.

33 If a local authority thinks that they may have a good case to add a particular procession to the list of processions to be made by order, they should write to the Minister for Justice at the address given in paragraph 24 of the guidance for local authorities. The Minister will consider any request and may decide to add processions to an order to be laid at the Scottish Parliament.

Reasons for making decisions on notifications

Recommendation 5, 16 and 17: Local authorities and the police should take certain key steps to assess notifications during the extended notification period; 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 the organisers; local authorities should have discretion to impose conditions proportionate to the notification and to address the issues upon which it based its decision.

34 Under previous arrangements, local authorities had little time to consider notifications in any great detail and often restricted decisions on public-order issues and public-safety issues. Those issues are still important, but the amendments to Section 63 of the 1982 Act means local authorities must consider a range of issues on which to reach a decision after consulting the police on whether to prevent the procession or place conditions on it. Considering any risk to the public and threat to public order now covers:

- public safety;
- public order;
- damage to property;
- disruption to the life of the community;
- whether the march (either alone or with other events) would place too much of a burden on the police; and
- the effect of previous processions.

35 We note that Section 63(8)(b) of the 1982 Act allows local authorities to consider whether risks arising from holding the procession would place too much of a burden on the police. This burden is not about the financial costs associated with policing a procession but is about the general burden in terms of manpower and the other commitments that the police may have to cope with on the day of the procession. We advise that this issue is one of the main factors in deciding whether the procession should be allowed to go ahead without conditions being placed on it.

36 As is made clear in the guidance for local authorities, local authorities must examine **all** the factors before deciding whether it would be appropriate to prevent a procession or place conditions on it (such as re-routing this event). A local authority will need to make sure that any restrictions they place on a procession can be justified and do not affect the rights of those who want to march. As a result, any decision they make about preventing a march, or placing conditions on it, must be compatible with human rights. A local authority will only be able to place restrictions on a procession in line with what is set down in Article 11 of the Convention.

37 Ultimately, the changes to the law on marches and parades are about striking the right balance between the rights of communities and the rights of marchers and making sure that processions give proper notice, and are planned, discussed, and carried out in a modern, professional way.

Section 2: The duties and powers of local authorities in the Police, Public Order and Criminal Justice (Scotland) Act 2006

We explore how practical the recommendations 5 and 16 are in more detail in section 3 of this report and the guidance for local authorities.

List of processions to be provided to the public

Recommendation 9: Local authorities should prepare an annual digest of processions with organisers at the beginning of the calendar year, and update it every quarter and ensure the digest is well publicised and accessible.

38 To make sure that communities get more information about marches before they take place, Sir John's report recommends that each local authority should produce a list of marches at the beginning of each calendar year, update it regularly and publicise it.

39 We appreciate what Sir John would like to achieve and have decided that local authorities can satisfy this by keeping lists and making them available under new sections 63(9)(a) and (b) and the information that is to be kept and made available under section 63 (10) of the 1982 Act. Paragraphs 40 to 47 of this report covering recommendations 10 and 11 of Sir John Orr's report set out how local authorities should produce and publish information to record the status of processions. Paragraphs 55 to 59 of the guidance for local authorities also set out more on the responsibilities that they have to involve communities.

Recommendation 10: Local authorities should provide up-to-date information about forthcoming processions to local communities using the most appropriate means.

40 The Scottish Ministers support Sir John's recommendation and would emphasise that letting communities know about processions is part of the new processes. Scottish Ministers have decided not to place any requirements on local authorities which would mean that they would have to consult community organisations about each proposed procession within their area, but they would ask that they pay particular attention to paragraphs 55 to 59 of the guidance to local authorities.

41 Local authorities will be responsible for regularly updating the lists needed under the 1982 Act and for rolling them forward. We would recommend that to meet the requirements of Section 63(10) of the 1982 Act that a local authority keep a list of processions for current notifications and says in the list that they need to receive any representations about holding any particular march or parade within a set time. (Each local authority would decide on this time limit, but we suggest giving at least two weeks before the date of each procession.)

42 We suggest that it may be helpful to provide advice on how the information for the lists should be laid out. This could be achieved by creating a simple-to-read table which could give the public the following details.

For lists kept under Section 63(9) of the 1982 Act

- The reference number of the notification.
- The date the notification was made.
- The name of the organisation which applied to hold the procession.
- Whether a decision was taken to prevent the procession or restrict it.
- If the procession was not allowed to go ahead, the reasons why it was prevented.
- The date the procession was held, if appropriate.
- The route the procession took, if appropriate.
- The number of marchers who took part, if appropriate.

For lists that local authorities may want to keep of current notifications under section 63(10) of the 2006 Act

- The reference number of the notification.
- The date the notification was made.
- The proposed date of the procession.
- The name of the organisation proposing to hold the procession.
- The proposed route of the procession;
- The expected number of marchers involved;
- The date by which they want comments from the public, if appropriate.
(See paragraph 54 of the guidance to local authorities.)
- The current status of the notification.

Recommendation 11: Local authorities should maintain an 'opt-in' list for organisations to receive information about processions.

43 Sir John's report states that it is important for local authorities to make sure that some important groups receive regular updates about processions. This would allow these groups to plan better and work around any problems that could be caused by the procession. It would also make sure that the public are better informed of forthcoming events.

Section 2: The duties and powers of local authorities in the Police, Public Order and Criminal Justice (Scotland) Act 2006

14

44 The Scottish Ministers welcome this recommendation. Section 63(10) of the 1982 Act will help to make sure that any person, organisation or other group who makes a request can receive information about processions which are to, or might, be held in their area. We suggest that local authorities create opt-in lists to let those on the list know about processions which are about to be held using e-mails or by letter. We provide an example in annex A of the guidance of the type of letter that local authorities could send to relevant organisations on the opt-in lists. You can find more information on opt-in lists in paragraphs 51 to 54 of the guidance for local authorities.

45 We would also recommend that each local authority's website provides a note of the list of the groups held on their opt-in list so that other interested individuals and organisations know that a list exists so that they could get in touch and ask to have their names added. Given that Section 63(10) of the 1982 Act places a duty on local authorities to give, if asked, any person or group information about processions, it may also be appropriate to keep a note of those who have asked for the information on processions. A local authority could then ask if they would want their name added to the opt-in list for future mail-outs.

46 It is for each local authority to decide which organisations they should include on their opt-in list. However, we have given some thought to the types of organisations which we consider might be the most appropriate for receiving information on scheduled marches. We do not provide a full list as each local authority will know who to contact as a matter of routine. However, general organisations could include:

- groups like local-authority committees;
- authority-wide groups like the Local Hotels' Association and bus companies;
- local groups like residents' and tenants' associations; and
- others like relevant MP or MSP constituency offices, voluntary organisations, tourist information centres and so on.

47 On community consultation generally, the community planning process, which local authorities must follow under the Local Government in Scotland Act 2003, can also be used as a basis for considering how public services can be provided for public processions which take place regularly in certain local authority areas. The Community Planning Partnership can decide what priorities to set for the local area, but if processions are discussed as part of this process, local authorities should involve communities in line with their existing community planning arrangements. The community planning process does not mean that local authorities have to consult the community every time that someone sends them a notification of a proposed procession. You will find more information on involving the community included in the Statutory Guidance on Community Planning (see paragraph 64).

Section 3

Taking forward the changes which are not legal requirements in Sir John Orr's report

Introduction

48 This section of the report explains the parts of Sir John's review which are not legal requirements and sets out the process that Scottish Ministers, having taken account of our views, recommend that local authorities, the police and march organisers should follow (if this is appropriate). The guidance for local authorities repeats some of what appears in this section and, as we said earlier, there is some crossover between the two publications.

49 There are a small number of Sir John's recommendations which we decided could not be put into practice fully or could only be achieved by taking a different approach. This section of the report makes it clear if we had to consider a different approach to meet a particular recommendation. The Scottish Ministers were happy with our approach in this.

Operational date

50 As it says in the chair's foreword and paragraph 22, the statutory conditions on marches and parades will not come into force until 1 April 2007 because the Scottish Ministers want to give local authorities, the police and the organisers enough time to consider the changes to the law and to prepare for the new process. As a result, it follows that the procedures set out in this section of the report will not come into operation until the same date.

Period of notice

51 Under the first part of Sir John's report, Scottish Ministers, on our advice, would recommend the following.

Recommendation 4: Local authorities and the police should set up 'single gateways' within their organisations to deal with procession notifications.

52 Sir John Orr's report highlights that organisers often send their notifications to a number of local-authority departments and that they could then find themselves dealing with a number of contacts at the local authority and the police. He believed that this could cause confusion for the organiser and may have led to inconsistent advice being given out from different parts of the organisations. To deal with the problem, Sir John recommended that 'single gateways' are set up. (In other words, there is one point of contact in the authority for organisers to contact.)

Section 3: Taking forward the changes which are not legal requirements in Sir John Orr's report

53 The Scottish Ministers welcome Sir John's recommendation and would invite local authorities, the national park authorities (it is important that they are included in this process) and police forces, if they have not already done so, to use the 'single gateway' process set out at paragraphs 45 and 46 of the guidance for local authorities.

Recommendation 6: Local authorities should complete risk assessments and impact analyses on notifications to provide good quality, factually-based information to inform the decision-making process.

General

54 Our recommendation on assessing risk is reflected in paragraphs 62 to 64 of the guidance for local authorities. In brief, we decided that it would be enough for local authorities to assess the risk of holding a procession by taking account of all the considerations set out in law and any other relevant information which may be available. If a local authority believe it is necessary, they can ask the organiser to carry out a risk assessment (see **Annex C** of the guidance for local authorities which provides information on what might appear in a standard risk-assessment form).

55 An organiser may not need to carry out a risk assessment for less significant marches and parades. A local authority should decide the circumstances under which they consider that an organiser's risk assessment will be needed and let the organiser know. A local authority should ask the organiser to send their risk assessment to them with the notification to hold a procession.

Recommendation 7: 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 their local circumstances with a regular public report produced.

56 As mentioned earlier in this report, the Scottish Executive has been in discussion with the Accounts Commission and HM Chief Inspector of Constabulary and has met separately with COSLA. You can find a general note of the information to be collected from local authorities in paragraph 9 of the guidance for local authorities. However, when we wrote this report, the Scottish Executive was continuing its discussions with COSLA and had not made a decision on how to collect the information on marches and parades from local authorities. As a result, the Scottish Executive will be writing separately to give local authorities more advice.

57 In terms of monitoring the role of the police, HM Inspectorate of Constabulary (HMIC) does not have a legal duty to gather statistics or information from Scotland's eight police forces. However, they do this each year. As a result, HMIC will add some relevant questions into their inspection procedures and statistical returns each year. If necessary, they may make further recommendations to the relevant police organisations for improving performance.

58 Getting information back from local authorities and the police fulfils just part of the monitoring process. We agree that it would also be important to get a view from march organisers and community organisations. Because of this, it is likely that the Scottish Executive will be asking them about how the changes to the way that marches and parades are handled has affected them. The Scottish Executive will put all the information it collects into a report which it will publish in summer or autumn 2008. Further reports may follow.

Recommendation 8: Local authority associations and police associations should ensure good practice is shared more widely.

59 Sir John Orr's report suggests that it is important for experiences surrounding processions to be shared more widely so that those involved in the process can learn from others. We agree that it would be valuable for local authorities and police forces to share their experiences.

60 Our recommendations on how best to take this forward are shown in paragraphs 47 to 50 of the guidance to local authorities. We would also suggest that the channels to be put in place should follow the principles of the single gateway process (see paragraphs 45 and 46 of the guidance for local authorities and paragraphs 52 and 53 of this report). We have designed the model outlined in paragraph 46 of the guidance to provide communication between the relevant officers within local authorities and the police, in a way which is as easy as possible. We would suggest that COSLA take the lead in setting up the 'e-mail group' we describe in paragraph 50 of the guidance and that they report back to the Executive once the group has been set up.

Informing and involving the community

61 Under the second part of Sir John's report, we would recommend the following.

Recommendations 12, 13 and 14: Local authorities should establish mechanisms appropriate to their areas to ensure that communities are able to express views on processions; should take into account wider views, including community views, when taking decisions on procession notifications and put in place clear procedures for considering community views.

62 Sir John Orr's report goes into some detail about the procedures that should be put in place to make sure that communities' views and other wider views are taken into account.

63 As we said in paragraph 40, the 1982 Act does not include community consultation but there is a condition in Section 63(9) of the 1982 Act for local authorities to keep and make available lists of processions and those not allowed to go ahead. There should also be arrangements in place to provide information about processions to people who ask for it under Section 63(10) of the Act. And, Section 63(8)(iv) of the 1982 Act says that local authorities must consider how far a procession would disrupt the life of the community before deciding whether to place conditions on it or ban it completely.

64 We would also repeat the advice in paragraphs 55 to 59 of the guidance for local authorities that there are other ways of giving communities the information they need. The community planning process, under the Local Government in Scotland Act 2003 (see paragraph 47), could also be used as a basis for considering how public services could be provided for processions which take place regularly in the area.

You can find the Executive's guidance on community planning at:

<http://www.scotland.gov.uk/library5/localgov/cpsg-00.asp>.

65 The issue of involving the community is a strong theme of Sir John's report. Scottish Ministers share Sir John's vision and this is reflected in this report, the guidance for local authorities and the terms of the 2006 Act. Because of this, the methods local authorities use for involving their communities will form a central part of the information the Scottish Executive will collect under recommendation 7 of Sir John's review.

Decision-making

66 Under the third part of Sir John's report, we would recommend the following.

Recommendation 15: Local authorities should remain responsible for taking decisions on procession notifications.

67 Sir John's report notes that, under the 1982 Act, local authorities are responsible for making decisions about procession notifications (after consulting the Chief Constable). Sir John says, in his report, that there is no justification for setting up an independent national organisation to take on the role of deciding whether processions can go ahead.

68 We agree with Sir John's comments.

Recommendation 18: Local authorities should respect key traditional dates but organisers should be prepared to compromise over routes where necessary.

69 Sir John's report says that there are certain dates which are traditionally important to various organisations and communities. His report also recognises that local authorities should, as far as possible, continue to respect these dates but that there needs to be discussion and compromise around routes. He also notes the commitment from the Orange Order that they would co-operate in this and the Apprentice Boys of Derry have recognised the need for genuine and voluntary negotiation.

70 We have considered this recommendation and recognise the need for local authorities to continue to respect these important traditional dates. We welcome the commitment from the Orange Order and the Apprentice Boys of Derry in Sir John's report. However, it is still the case that some organisations often hold a number of local events on the same theme or hold similar parades on a number of separate occasions, for example, women's section, juvenile sections and bands associated with a particular lodge. As a result, one lodge may hold a variety of parades across the same route on many occasions throughout the year.

71 While recognising that local authorities have no legal powers in this area, we would recommend that a local authority hold meetings with marching organisations to open discussions on:

- whether there are possibilities to reduce the number of marches by combining individual section marches; and

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- getting organisers to confirm why they need to send in multiple notifications to hold separate parades with a similar theme in the same area (sometimes on consecutive weeks).

72 The Scottish Ministers would point out that the outcome of discussions on the number and the routes that processions take may also help to remove or reduce the number of conditions which a local authority may have to otherwise place on the procession. For example, a minor re-routing of a march may be enough to make sure that disruption is reduced to a level which will allow the march to go ahead without other conditions needing to be placed on the organiser. If organisers compromise on the number of processions, it may also help to create savings for local authorities and the police as there will be fewer notifications to process and fewer processions for the police to attend.

Recommendation 19: Organisers should provide a written, signed notification providing the key information required by the local authority.

73 Sir John Orr's report notes that the current law sets out the information that organisers should include in their notifications. It also notes that some local authorities already give organisers a form while other authorities need only a written notification. Sir John recommends that a written, signed notification should be provided and says that local authorities should use the information in the notification as the basis for an initial discussion between local authorities, the organiser and the police.

74 We support this recommendation and believe it will create a common process. We also agree with Sir John's observation that it will be useful to use the notification form as a basis for discussions between the local authority, the organiser and the police (see paragraphs 77 to 82 of this report and paragraphs 60 and 61 of the guidance for local authorities). We would also advise that using a standard form will help local authorities and the police with better record-keeping.

75 The Scottish Ministers agree with our approach and have approved the standard notice form in **Annex D** of the guidance for local authorities. Local authorities can adapt the form to suit their purposes but the main information needed under Section 62(3) of the 1982 Act **must** feature in any version. If a local authority is going to ask the organiser to carry out a risk assessment, the assessment should – where practical – be returned with the notification form (see paragraphs 54 and 55 of this report).

76 We would suggest that local authorities use paper notification forms and make electronic versions available on their websites. Local authorities should ask organisers to send copies of the notification to them and the appropriate police area office and that organisers keep one for themselves. The form should contain the contact details of the local authority's lead official. It would also be good practice on a local authority's part to refer the organiser to their 'how to' guides (see **Annex B** of the guidance for local authorities), either by sending a copy of it with the notification form or by referring the organiser to the appropriate website link.

Recommendation 20: 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.

77 Sir John's report says that local authorities should hold a precursory meeting with the organiser, the police and other important groups which may be relevant. Sir John goes on to say that this discussion would be useful for allowing everyone to go through the notification to discuss any possible problems.

78 We support the recommendation and the guidance for to local authorities sets out how these meetings might fit in to the new process. Local authorities should consider the merits of inviting community organisations to these precursory meetings so they can have their say and give feedback on their experiences of any similar marches that may have been held in their area.

79 The guidance for local authorities does not go into detail about when a local authority may or may not need one of these meetings and so this section of the report covers that issue and what these meetings might cover. While we realise that a precursory meeting is not always needed, we would suggest that this should be the exception rather than the rule. If a local authority feel that a meeting is not necessary, they could discuss issues surrounding a routine or small-scale march quickly and agree matters over the phone or by e-mail instead. Local authorities may not need a meeting of this kind, for example, if:

- the organiser is experienced in holding processions;
- the procession is following a known or regular route;
- no previous problems with the procession have been recorded;
- the local authority are confident that no serious risks would arise from holding the procession; and
- the notification meets the conditions of a local authority's existing policy on processions in relation to – timing, route, music playing, numbers of people involved, and so on.

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80 However, local authorities must arrange a meeting if:

- the organiser's risk assessment reveals that there are a number of risks associated with holding the procession;
- little is known about the organiser or the organisation;
- the number taking part or the number of expected onlookers is expected to be substantial;
- the stewarding arrangements appear unsatisfactory (not enough numbers or training provided);
- the procession forms part of a series of processions in the same area;
- the timing or route conflicts with a planned community event, parade or other event in the area for example, a local gala, football match, race and so on;
- it is likely that the procession will cause a lot of disruption to traffic, residents and businesses;
- its route passes through communities which may be strongly against it;
- plans for leaving the area afterwards are not good enough;
- there may be potential for conflict, public disorder or damage to property; or
- there is a history of conflict, public disorder, damage to property or considerable public complaint in relation to previous processions by the organiser, the organisation itself or its followers or the proposed route.

81 If a local authority are holding a meeting, they should provide the venue and be closely involved in all aspects of the discussion. The Scottish Ministers agree with the recommendations that the precursory meeting covers:

- the information provided by the organiser in the signed notification form;
- the information provided by the organiser in their risk-assessment form;
- the local authority's code of conduct;
- the possibility of combining the march with another procession;
- the reason for holding the procession;
- the route;
- the timing;
- the number taking part;
- the arrangements for people meeting up before the march and then leaving afterwards;

- the arrangements for stewarding and information on any training that they have carried out;
- the operational matters to do with policing requirements, traffic, parking, and community issues;
- displaying flags and emblems to make sure that there would be no items at the parade which might break Section 13 of the Terrorism Act 2000;
- any concerns the police or the local authority may have had about previous parades; and
- contingency plans, in other words, what alternative is in place if there is a delayed start, poor weather, alternative route and so on.

82 We would recommend that a local authority gives all those at the precursory meeting a note of what was agreed and, where possible, that everyone signs an agreement.

Recommendation 21: Once the notification has been considered by the local authority, the authority should issue organisers with a ‘permit to process’ outlining what had been agreed and what was expected.

83 Sir John’s report says that it would be helpful for all those concerned if the outcome of the notification was recorded in a consistent way. This is described in his report as a ‘permit to process’ which would bring together the main parts of the process. Sir John says that the permit should record:

- what was agreed at the meeting;
- the code of conduct that organisers and those taking part will be expected to follow; and
- the formal conditions that might apply.

84 We agree with this recommendation but, as we said in paragraphs 15 to 16 of this report, we believe that the term ‘permit to process’ is not appropriate and that the term ‘letter of confirmation’ should be used instead. The letter of confirmation should not be sent until the local authority has the wider views of their community and those on their opt-in list, and after they have taken account of discussions with the organiser and the police. Local authorities can decide on the content of the letter and the conditions that may have to be put in an order. Because of this, we have not produced a draft standard covering letter as local authorities should decide what they want to say to the organiser.

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85 The debriefing meetings (see paragraphs 87 to 92 of this report and paragraph 65 of the guidance to local authorities), which may need to take place after a procession has been held, should cover any areas of concern to the people involved. (This will include any concerns expressed by the communities and local businesses and whether there were any aspects of the letter of confirmation or the order which the organisers did not keep to). If there have been some serious concerns raised, the local authority should let the organiser know at that meeting that the possibility of holding future processions may be at risk.

Recommendation 22: Organisers should not be required to pay a fee for a notification to organise a procession.

86 Sir John says in his report that some people suggested that organisers should have to pay a fee. However, he points out that asking organisers to pay a fee would run the risk of creating a two-tier system of those who could afford to pay and those who could not. We accept Sir John's reasons for his recommendation and agree that organisers should not pay a fee.

Recommendation 23: Debriefing meetings 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.

87 Sir John says in his report that little debriefing takes place and notes that often there would only be debriefing if something had gone wrong during a procession. We agree that a debriefing meeting offers the chance to examine how the procession went to see whether the procession met the agreed conditions. Paragraph 65 of the guidance for local authorities sets out some general guidelines on debriefing meetings. This section of the report examines the issue in more detail and sets out our views on how local authorities should take this recommendation forward.

88 Scottish Ministers recommend that debriefing meetings should not be needed for small-scale, 'straightforward' marches which have passed off without incident. However, it would be a good idea for local authorities to host short debriefing meetings for all large-scale processions even if these have not attracted trouble. This will allow all those involved to share their views on the event and provide information on how these events could be handled better in the future. We also note Sir John's comments that the meeting should be followed up by a signed record of what happened. We believe that there can be no guarantee that everyone at the meeting will come to one view which they would all sign up to. Because of this a local authority should provide a formal note of each debriefing meeting instead and send it to all those who took part.

89 There is no requirement about the timescale in which this meeting should take place. However, the purpose of the meeting would be to agree and produce a record of what happened at the procession so that local authorities and the police can take account of this record when deciding whether a future procession should be prevented, or whether conditions should be placed on this type of event.

90 A local authority should **automatically arrange** a debriefing meeting if a procession has caused conflict, there was public disorder, damage to property or there were many complaints. The debriefing meeting should involve the organiser and the local authority's officials (as well as the key police officers responsible for overseeing the policing of the procession). If appropriate, a local authority should also invite a representative from the local community or any person who has comments to make about the procession. The meeting should cover:

- the content of the letter of confirmation;
- how the organiser dealt with the procession, including stewarding arrangements;
- how the people in the parade and onlookers behaved, if appropriate;
- policing arrangements;
- public order incidents for example, any drunkenness, or verbal or physical abuse;
- the action that had to be taken by the police on the day to maintain order and the number of arrests that were made (see also paragraphs 121 to 123);
- any failure to follow the local authority's code of conduct;
- any failure to keep to the terms of the discussion at the precursory meeting (if any);
- any failure to keep to the content of any order made;
- significant traffic or other disruption; and
- any complaints received.

91 As we said earlier, a local authority should use the meeting as a basis for analysing the effect of holding the march so that they can identify the wider implications of holding similar processions in the future. This would be the 'impact analysis' which should come up with answers to the following.

- Having carried out the risk assessment and discussed the known risks with those concerned, what risks might there still be with holding this type of procession in the future (for example, disruption to traffic, communities, public disorder and so on)?

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- Who and what will continue to be most at risk (for example, businesses or the public)?
- What measures could be taken to reduce the risk in the future?
- Having considered how to deal with all the risks, will it be possible to sort out any other risks in time for the next notification for a similar procession?
- What continuing pressure will this type of procession have on resources in the area in the future (the police, the emergency services and so on)?
- Are there enough precautions now in place which will allow marches of a similar type to go ahead in the future?

92 If any serious concerns are raised at the debriefing meeting, the local authority should tell the organiser in a follow-up letter and let them know that the possibility of holding future processions may be at risk. The local authority should record the note of the meeting and the outcome of the impact analysis and hold them on file with other relevant papers.

Numbers and the effects on communities

93 Under the fourth part of Sir John's report, we would recommend the following.

Recommendation 24: Organisers should continue to act responsibly in ensuring processions are organised for appropriate purposes and consider the scope for combining processions on certain occasions.

94 Sir John's report recommends that those responsible for organisations which arrange many parades on the same day, celebrating the same event, should look at combining processions to reduce, as far as possible, disruption caused in an area.

95 You should read paragraphs 69 to 72 of this report which describes how local authorities, the police and the organisers might take this forward.

Recommendations 25 and 37: Local authorities and the police should ensure that they keep statistics on the numbers of processions taking place and the associated policing costs. Local authorities should consider relevant police costs when reaching decisions about march notifications.

96 Sir John’s report notes that there is limited reliable information about the number of processions which have taken place in Scotland. His report points out that better record-keeping will allow communities to have better information about the number of processions being held and the associated policing costs involved, and also that policing costs can often be significant. He also goes on to say in his report that it is not enough to ban a procession on the grounds of cost alone, but that it would be fair to consider police costs in reaching a decision about a notification and whether local authorities should place restrictions on a procession to help reduce police costs.

97 On recommendation 25, Scottish Ministers would suggest that the statistics on the number of processions held in a particular area are taken from the lists local authorities keep (see paragraphs 40 to 47). On recommendation 37, we support the comments in Sir John’s report but would point out that local authorities cannot take account of police costs when considering notifications as this is not an important part of whether or not a march can go ahead. Local authorities should ask the relevant police force to give them the actual costs associated with holding each procession. A local authority should not use estimated costs as this may lead to publishing inaccurate figures and there may be accusations from the organisers that the information being provided was misleading.

98 In line with the ‘single gateway’ process, the police should pass information to local authorities regularly so that they can put the figures into statistical tables. Local authorities should publish the information on their websites at the end of the year and give it to marching organisations. Local authorities may also want to consider sending the information to those organisations named on their opt-in lists. Local authorities may want to consider publishing a table in the following format:

Table showing statistics on the numbers of processions that took place in 2007/2008 and the associated policing costs.

Organisation	Date procession held	Number taking part	Number of police needed	Amount of police costs
				£
				£
				£
				£
Total				£

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99 The Scottish Executive may collect the information on processions and associated policing costs for their report. (See the text on recommendation 7 in paragraphs 56 to 58.)

Recommendations 26 and 30: As part of their planning process, organisers should consider whether it is necessary to take out public liability insurance; 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.

100 We welcome the comments in Sir John's report about insurance and behaviour bonds. However, we and Scottish Ministers have decided that it would not be possible to put these recommendations into practice on all occasions because a march organiser may not be able to afford to take out public liability insurance or provide enough funds to cover a behaviour bond. And, insurance companies may not be prepared to offer insurance for every public procession if they consider there is a likelihood that they will have to make a payment.

101 There is also the possibility that making all march organisers take out insurance could be challenged because this affects Article 11 of the ECHR. This is because not every march organiser will be able to get insurance or may not be able to afford it. If a local authority thinks that it is likely that a proposed procession will cause public disorder or damage to property, they can make an order which either prevents the procession, or place certain conditions on it to reduce any risk. In any event, the Scottish Ministers do not think that local authorities could run the risk of not restricting a procession if the event is most likely to cause public disorder or damage to property, simply because a march organiser has taken out insurance.

102 Nevertheless, Scottish Ministers agree with us and consider that it would be good practice on the part of the organiser to try and get insurance which is appropriate to cover the risks associated with holding the procession. Local authorities should encourage this and may want to invite the organiser to say in the notification form whether they have insurance. Local authorities may also want to ask the organiser to give them a copy of the insurance certificate. They could provide this at the same time they send the notice to hold a procession. If they do not get insurance, it should not affect the decision on whether the march can go ahead with or without conditions.

Recommendation 27: Local authorities should produce 'How To' guides for organisers of processions.

103 Sir John Orr's report acknowledges that organising an event involves a lot of detailed planning and says that the planning process, particularly, for larger events needs to be approached in a professional and well-organised way. Organisers need to be aware of the full range of laws which could apply to their procession. He also says that a number of local authorities in Scotland have already produced guidance for organisers of events. As local authorities will have a single gateway to handle notifications, he recommends that local authorities should also think about developing guidance for organisers of events including processions, and draw on what currently exists appropriate to their circumstances. Appendix I of Sir John's report provides a summary of the main elements for a 'how to' guide.

104 We agree this recommendation, but, as we say in the guidance for local authorities, the Scottish Executive does not plan to provide a standard guide as they consider that it would not be possible to draft one which would fit all purposes. Local authorities should draft their own guides in line with what is appropriate to their circumstances. **Annex B** of the guidance provides an outline of the information which might appear in a 'how to' guide. Local authorities should share good practice widely (see paragraphs 59 and 60 of this report on recommendation 8) and ask for support and advice from other local authorities when drafting guides.

Recommendation 28: 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'.

105 Sir John's report recognises that many local authorities and police forces have voluntary codes of conduct in place and that some organisers also have their own codes. He notes that these codes cover things like:

- timing;
- routes and arrangements before and after the event;
- conditions about where people will march – such as how wide the march will be and in what part of the road; or
- conditions about noise – such as where and when music can be played and loudhailers used.

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106 As shown in the guidance for local authorities, Scottish Ministers agree our recommendation that local authorities should be free to decide whether they want to create or adapt a particular code of conduct. It is also up to them to decide whether they want to adapt one code for all processions or provide a set of codes to suit particular types of procession. The Scottish Ministers agree with our recommendation that local authorities should give the code of conduct to organisers with the notification form.

107 Local authorities cannot take any immediate action if the organiser, or anyone involved in the march breaks the code of conduct that is provided. However, local authorities will need to take this into account when making future decisions about whether a similar procession can take place. Section 63(8)(c) of the 1982 Act says that local authorities can account for whether any guidance or code of conduct was followed when deciding what conditions to place on similar processions.

Recommendation 29: Organisers should ensure that their existing codes of conduct reinforce the behaviour expected of participants in the 'permit to process'.

108 Sir John's report notes that many organisers already have detailed codes of conduct governing the behaviour of their members and others during processions. These are important in making sure that the people involved behave in an appropriate way. However, Sir John recommends that organisers should make sure that their codes of conduct reinforce the behaviour expected of people taking part as set out in the 'permit to process'.

109 We agree with the recommendation and would advise that organisers' codes should reinforce the behaviour they expect from those taking part in any march. However, we would suggest that codes operate in a way appropriate to local circumstances. For example, common ridings events, which involve whole communities, and other traditional festivals will need a completely different approach by organisers to those processions which are held by loyalist and republican organisations. We would suggest that all codes are linked so that everyone involved is aware of their own responsibilities.

110 While organisers have a lot of responsibility for making sure the people taking part behave well, this does not mean that they are not responsible, as individuals, for their own actions. The organiser should tell those taking part what general standard of behaviour is expected of them and that it is likely that they will be arrested if they commit an offence.

111 Scottish Ministers agree with our recommendation – while also acknowledging that not all codes will involve the same approach towards controlling behaviour (see paragraph 109) – that organisers' codes should make sure that they account for the following.

- The organiser must co-operate with the local authority and the police from the time they send the notification up until its end point.
- The organiser must identify themselves to the police officer in charge at the start of the procession.
- The organiser must make sure that, if the procession is cancelled, the local authority and the police are told promptly (and in writing within at least 48 hours).
- The organiser must make sure that everyone involved is aware of the conditions that have been placed on the procession.
- The organiser will take responsibility for making sure that anyone under the influence of alcohol or drugs is not allowed to take part.
- The organiser will make sure there is an appropriate ratio of stewards to people taking part and make sure that stewards:
 - are well-briefed by organisers and given guidance on their role within the procession before it starts;
 - carry identification and wear suitable clothing (for example, fluorescent jackets) to make themselves easy to identify;
 - co-operate fully with the police;
 - behave in a proper way;
 - make sure that people taking part keep to directions about their own public safety and that of members of the public; and
 - accept responsibility for the behaviour of all those involved, bands (where appropriate), and those following the procession.
- The organiser should make sure that the behaviour of people taking part cannot be seen as being deliberately aggressive and should note that local authorities will take account of any public disorder, antisocial behaviour or damage to property resulting from the procession in any notification received in the future from the organiser for a similar procession.

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112 Again this depends on the type of procession, but organisers should, in general, make sure the following take place in relation to routes.

- Wherever possible, processions should follow main roads as opposed to being channelled through residential areas.
- Those taking part do not march more than four abreast, keeping to the left-hand side of the street.
- Police are helped in guaranteeing that traffic and pedestrians will be able to pass.
- The procession is split into sections to avoid disruption to traffic and pedestrians.
- Where possible, all music will stop when approaching and passing places of worship while services are in progress or as instructed by the police.
- All those involved leave in an orderly and timely way at the end of the procession.

Recommendation 31: Organisers should recognise the degree of responsibility they have for the behaviour of onlookers and exercise appropriate influence to improve behaviour where they can.

113 Sir John's report recognises that it is often the case that any disruption and intimidation at marches is not caused by the marchers themselves but by those who choose to watch. He goes on to say that the fact that a procession is taking place puts a degree of responsibility on the organisers and they should use their influence to make sure that onlookers behave appropriately.

114 We support this recommendation and would refer to the text provided on recommendation 29 in paragraphs 108 to 112. We also welcome the commitment made by key march organisations who signed a statement with the Justice Minister and Strathclyde Police on 2 May 2006 to agree to work together to weed out 'hangers-on' who set out to cause trouble at marches and parades. We have attached a copy of the statement that they have signed up to in **Annex C**.

Recommendation 32: 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.

115 Sir John's report makes the point that organisers and the police have a shared responsibility for controlling processions. He also notes some of the main issues that organisers should be taking action on (the number of stewards, their training and equipment, identifying stewards, briefing stewards, the chain of command and communication). Sir John also welcomes the assurances given by the Grand Lodge of Scotland and the Apprentice Boys of Derry that they would be happy to work with the police and local authorities to make sure their stewards are well trained. The cost of any training should be met by the organiser.

116 We support this recommendation and recognise that better-trained stewards will lead to fewer incidents at marches which should, in turn, reduce the burden on the police. We have considered whether there is appropriate training that could be offered and, while noting that the local authorities and the police are not expected to help with any of the cost, would suggest that stewards receive training in:

- how to handle emergencies;
- crowd control;
- basic first aid;
- the public order laws and any other relevant law (such as health and safety and so on); and
- understanding the powers and duties available to the police.

117 We would also recommend that stewards receive high-visibility jackets or vests which make them easy to see. The chief steward should also give all stewards a formal and detailed briefing on the day, which could include:

- the general duties of stewards;
- the conditions which have been placed on the event;
- any police instructions that have been given about the event; and
- what communication channels will be used on the day.

118 The chief stewards should also go to the debriefing meeting (see paragraphs 87 to 92) so that they can share their account of the way the event was handled and any concerns can be tackled in time for the next event.

Recommendation 33: 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.

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119 Sir John's report picked up on the comments received that there is a need to have stricter control on the behaviour of bands and their followers. In response, he recommended that as part of the process of providing notice, the organiser should include the names of the bands that will play at the procession and the name of the band member who will be responsible for their behaviour.

120 In response to this recommendation, we have inserted a section in the draft notification form in **Annex D** of the guidance to local authorities which the organiser will fill in. This section of the form relates to the bands that are expected to play at the procession along with an entry where the organiser should give the names of the band member or stewards who will take overall responsibility for their behaviour.

Recommendation 34: The police should exercise their enforcement powers appropriately and, in liaison with stewards, ensure the policing of onlookers is effective and their actions considered as part of the debriefing process.

121 Sir John's report notes that the police already have enough powers to tackle poor behaviour at marches (see annex B of this report for details of the powers available to the police). He recommends that any police action taken at a procession should be included in the formal debriefing process. He also says that a review of how the police acted would help with policing arrangements for future processions.

122 We have considered this recommendation and believe that a review of how stewards act during the procession should form part of the debriefing process (see paragraphs 87 to 92). We recommend that the key police officers report on the action that had to be taken on the day to maintain order and the number of arrests that were made. A senior steward from the procession should give their view on how effective the stewards were. The local authority should record a note of this discussion and send a copy to the organiser.

123 As we said earlier in this report, local authorities will not need a debriefing meeting for small routine marches unless there are aspects of the march which concern the police, the local authority concerned or the community.

Recommendation 35: Local authorities without byelaws prohibiting the consumption of alcohol in public places should consider putting them in place.

124 Sir John says in his report that some of the problems associated with behaviour at marches is fuelled by people drinking alcohol. He notes that 27 local authorities have bye-laws in place to prevent alcohol being drunk in public places, covering more than 450 towns and villages and the cities of Glasgow, Dundee and Aberdeen. Sir John recommends that those authorities without bye-laws should consider introducing them or at least examine other ways of tackling the problem.

125 We have considered this recommendation and note that by-laws have significantly reduced the nuisance and disorder normally associated with drinking in public. The Scottish Executive will continue to support local authorities that come forward with by-laws proposals.

Police costs

126 Under the fifth part of Sir John's report, we would recommend the following.

Recommendation 36: Organisers of processions should not be required to meet policing costs.

127 In his report, Sir John says that views were mixed on whether organisers should have to pay for the policing costs associated with their parades. However, Sir John points out that any form of charging may well affect someone's right to march. With this in mind, Sir John recommends that organisers should try to work with the police to help reduce the policing costs associated with their processions.

128 We have considered this recommendation and Scottish Ministers agree with the suggestion that, where relevant, local authorities should tell march organisers at the precursory meeting of the expected police cost associated with holding their procession. This would help to bring into focus that costs associated with policing certain marches can be high. However, we would emphasise that the issue of police cost is not a factor for preventing a march from going ahead.

129 The Government is under an obligation to take reasonable measures to protect those who are using their right to march (the Plattform Arzte Fur Das Leben v Austria (1988) 13 EHRR 204 case refers). Section 17 of the Police (Scotland) Act 1967 also places a general duty on the police to protect life and property. As a result, the Executive considers that it is not unreasonable for local authorities to prevent a procession, or to attach conditions to it, after considering whether there are enough police officers or resources to police the event. When taken together, these should allow a local authority to place restrictions on processions to prevent disorder and protect the rights and freedom of others.

Section 3: Taking forward the changes which are not legal requirements in Sir John Orr's report

130 Local authorities are also under a duty to keep to the ECHR. As a result, they will need to make sure that the actual reasons for preventing or restricting a procession do not affect a person's right to march.

131 To meet Sir John's other recommendation on organisers working with the police to reduce costs, the Scottish Ministers consider that it would be worthwhile stressing the costs of policing similar processions to organisers and highlight where the local authority and the police consider that organisers could combine certain processions with other similar events. Local authorities might also want to consider sending organisers a copy of the table which we recommend local authorities keep to satisfy recommendation 25 (see paragraphs 96 to 99).

Recommendation 38: 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.

132 Sir John's report acknowledges that most marches pass off with little incident and that this is due to the police, the organisers and those taking part. However, he says there is the opportunity for the police's briefing to include information on the background, culture and the specific reasons for the march to make sure that officers understand the marchers' point of view and can better understand the likely flashpoints. March organisers could also have a role to play in explaining the role of the organisation.

133 We consider that most police forces will already be giving their officers detailed operational briefing for processions in their area. The Scottish Ministers agree with us but believe that the standard and content of the briefing will vary and will depend on the knowledge and experience of the individuals providing it. As a result, it may be useful for this report to set out the list of standard information that should be given to officers involved in policing the procession.

134 Each force will decide the content of its briefing material, but briefing for processions which have caused difficulties in the past or briefing for new processions should give officers more information than those needed for more standard processions. The following list gives an idea of the material that forces should be providing routinely.

- The name of the organisation and background information about them.
- The reason for holding the procession.
- Any known information about this particular procession.

- Details of any previous processions held and any known past difficulties.
- The number of marchers and onlookers expected.
- The route that the procession will take and the reasons why it has to follow that route.
- Details of any known flashpoints along the route.
- Anything else about the procession that officers should know.

135 It might also be useful for a small group of police officers to carry out a site visit of where the march is to be held and to meet the organiser. This will allow an officer to become familiar with the actual route that the marchers will take. The organiser could also let those present know the reason why their organisation is holding the procession.

Final remarks

136 This report and the guidance for local authorities form the background for long-term changes that the Scottish Ministers want to see made to the process of dealing with notifications to hold a march or parade and the ways that local authorities should keep communities and local business regularly informed.

137 We and the Scottish Ministers realise that this will not be achieved overnight and that it will take some local authorities more time than others to put all the recommendations of Sir John Orr's report and the good practice highlighted here and in the guidance into practice. That is why Scottish Ministers are not introducing the changes until 1 April 2007. As is made clear throughout this report, ECHR is still most important and local authorities should make sure that they do not infringe these rights when considering whether to place conditions on a procession or ban it.

138 The Executive will be monitoring the activities of the local authorities and the police and examining how they are responding to the major changes set out in this report and guidance. The Executive will publish a report of activity for 2007/2008 and may produce future reports on activity. The Scottish Ministers will be interested in seeing how local authorities, the police and march organisers are coping with the changes and the progress being made to make sure that marches and parades are handled in a more modernised way.

139 The Scottish Executive will keep the reporting requirements and the governing law under review.

Annex A

Timetable for taking decisions on notices

This annex provides a table to outline the main steps that local authorities should consider and the timetable that they might want to follow for taking decisions on notifications given 28 days before any procession. As far as possible, local authorities should respect important traditional dates and negotiate, if necessary, with the organiser about any other routes proposed.

Week one	<ul style="list-style-type: none"> • The organiser sends the local authority and the police a notification and any necessary risk assessment. The local authority should acknowledge that they have received the notification. • The local authority should make arrangements with the organiser and police for a meeting to discuss the notification. For small routine marches, the local authority can handle arrangements by phone or e-mail. • The local authority must publicise the notification according to their agreed procedures, giving two weeks to receive views and explaining how they will take account of those views. • The local authority must give information to those organisations on their 'opt-in list' (for example, business organisations, churches and, community councils). Give two weeks to receive views.
Week two	<ul style="list-style-type: none"> • The precursory meeting takes place with the organiser and, police to discuss the notification. The local authority should record the meeting and agree an outcome. • The local authority will assess the risks under Section 63(8) of the 1982 Act. The police will contribute to the assessment to help them form a policing plan.
Week three	<ul style="list-style-type: none"> • The local authority will receive views from the public, from those on the opt-in list and from the police. • The local authority must review all the information they have received to make sure that circumstances have not changed.

Week four

- The local authority must consider all the information received on the notification according to their agreed procedures (by officials or by committee).
- If appropriate, the local authority will make an order about the procession.
- The local authority must discuss the outcome of their consideration of views with the organiser and the police.
- The local authority will give the organiser a letter outlining what was agreed in the notification, any formal order they have made and the agreed code of conduct.
- The local authority must publicise the procession and any possible disruption through their agreed procedures.
- The procession takes place.

After the procession

- The local authority will need to hold a debriefing meeting between them, the organiser, the police and any other appropriate groups to discuss experiences, outcomes and to agree the record. The debriefing process should include a discussion about how the police used their enforcement powers.
- The local authority will not need a debriefing meeting for small routine marches unless there are aspects of the march which have concerned them, the police or the community.

Annex B

Police enforcement powers

This annex provides advice on the range of enforcement powers that the police can use against any offence committed by a person at a public procession. Police powers in Scotland come from two sources – common law and statute law.

Local authority bye-laws

Local authority by-laws exist to prevent drinking alcohol in public areas. Local authorities have the power to put by-laws into practice which prevent alcohol being drunk in certain or all public places in their area. These by-laws can apply throughout the year or at specific times or about specific events.

Common-law offences

Common-law offences include the following.

Breach of the peace – this offence takes place when one or more person behaves in a riotous or disorderly way, anywhere, and this alarms, annoys or disturbs other people.

Assault – when someone attacks another person whether or not they actually injure them.

Both offences mean the police can arrest without a warrant.

Public Order Act 1986

Public assemblies

A public assembly means a meeting or procession of 20 or more people gathering in a public place which is totally or partly in the open air, and a section of the public have access to it (by payment or otherwise). The most senior police officer present may place conditions on those meetings which are likely to cause serious disorder or intimidation.

Section 14 makes it an offence for the organiser of the meeting, or any person present, to knowingly fail to keep to any conditions placed on them by the police. It is also an offence to encourage any person taking part to fail to keep to those conditions.

Public Meetings Act 1908

Section 1 creates an offence for any person at a public meeting who acts in a disorderly way and prevents the meeting from taking place, or to encourage others to commit the same offence.

The police may only take action to deal with offenders if the chairman asks.

Civic Government (Scotland) Act 1982

Section 50 covers the offence of being drunk and incapable. Anyone who is drunk to the point of not being able to take care of themselves, and is not in the care of another person who can take care of them, is committing the offence of being drunk and incapable.

It is an offence under Section 65 of the Act for someone organising a procession to hold a public procession if there is an order preventing it, or which breaks conditions placed on it by an order. It is also an offence for any person to take part in an illegal procession, but only if they refuse to stop when a police officer tells them to.

Section 13 of the Terrorism Act 2000

Section 13 of the Terrorism Act 2000 says:

a person in a public place is committing an offence if they:

- a wear an item of clothing; or
- b carry or display an item:
 - that arouses reasonable suspicion that they are a member or supporter of a proscribed organisation.

The proscribed organisations include:

- the Irish Republican Army (IRA);
- Cumann na mBan;
- Fianna na hEireann;
- Saor Eire;
- the Irish National Liberation Army;
- the Irish People's Liberation Organisation;
- the Continuity Army Council;
- the Red Hand Commando;

- the Ulster Freedom Fighters;
- the Ulster Volunteer Force;
- the Ulster Defence Association;
- the Loyalist Volunteer Force;
- the Orange Volunteers; and
- the Red Hand Defenders.

Discussions have taken place between Strathclyde Police and senior representatives of the Orange Order, the Bands Association and the Apprentice Boys of Derry. As a result, the following have been agreed between them as being legal within the terms of the act.

- Flying regional or national flags, such as the Ulster flag.
- Taking any emblem or feature from a legal flag and displaying it on its own, for example, the 'red hand' of the Ulster flag.

It was also agreed that the following actions should be considered as breaking the act.

- Displaying the name or initials of any proscribed organisation whether on a legal flag or not, or on a musical instrument.
- Including a band name in a flag, banner or musical instrument if that band name includes the name or initials of a proscribed organisation.
- Changing a legal emblem or feature such as the 'red hand' in a way that shows support for a proscribed organisation, for example, adding wings would show support for the Red Hand Commando. This would also include those times when the band name is included in the emblem.

The Orange Lodge, as the employers of bands during Orange Lodge parades, have placed contractual obligations on bands, including:

- flags or banners are not to be carried wrapped up (furled); and
- bands should not call out or sing anything which would suggest they are members of, or support, a proscribed organisation.

To avoid any confrontation at a procession, organisers should discuss the above decisions and other related issues with the police at the precursory meeting.

Criminal Justice (Scotland) Act 2003 – Offences Aggravated By Religious Prejudice

Section 74 of the 2003 Act says that if an offence has been proved to be made worse by religious prejudice, the court must take that into account in deciding the appropriate sentence. Evidence from one source is enough to prove the offence was made worse by religious prejudice.

Annex C

Plain English Campaign's Crystal Mark does not apply to this annex.

Statement on tackling abusive behaviour at marches and parades

Scotland has a proud history of parading and peaceful assembly. We all accept that with those rights come responsibilities. While most participants conduct themselves in an orderly manner, some marches can attract individuals intent on causing trouble, singing and chanting abusive and bigoted songs and slogans and even behaving in a violent and disruptive manner. Such individuals have little interest in the march and are ignorant of the historical or political motivations behind it.

For many years communities have suffered the consequences of this behaviour. It is simply no longer acceptable for anyone to use these events as an excuse to indulge in anti-social and criminal behaviour. Those who organise marches and parades, the authorities responsible for the welfare of communities, the police responsible for keeping order and the Scottish Executive all agree that the abusive behaviour associated with marches and parades has no place in a modern multi-cultural and multi-faith Scotland. We all agree that the time has come for this problem to be tackled once and for all.

This statement is a clear message of our intent to work together to deal with the abusive individuals who are not welcome and will not be tolerated at marches and parades in Scotland.

Together we agree to:

- Exert whatever influence we can to ensure that those individuals who take part in marches and parades behave in a responsible and law-abiding manner.
- Use whatever means we can to advise spectators that abusive or violent behaviour will not be tolerated.
- Ensure that illegal symbols, slogans, uniforms or paraphernalia associated with banned organisations are not permitted on the march.
- Work in partnership to identify and deal with those individuals whose behaviour is unacceptable or causing distress to ordinary members of the community.
- Ensure that proportionate action is taken to deal with those individuals who will not desist from bigoted and abusive verbal or physical behaviour.

Signatories:

Cathy Jamieson, MSP, Minister for Justice

Ian Wilson, the Grand Master of the Grand Orange Lodge for Scotland

Jim Slaven, National Organiser for Cairde na hEireann

Katrina Purcell, chairperson of the STUC General Council

Gerard O'Connor, President, Ancient Order of Hibernians

William Hek, Grand Master, Provincial Grand Black Chapter of Scotland

Assistant Chief Constable Kevin Smith of Strathclyde Police

Councillor Jim Coleman of Glasgow City Council

Councillor David Saunders of North Lanarkshire Council

Annex D

Acknowledgements

The Scottish Ministers are grateful for the direction and support received from the Working Group. Ministers are particularly grateful for all their help and patience when preparing the report.

Members of the working group

Early meetings of the working group were chaired by Bridget Campbell, Head of Police and Community Safety Group in the Scottish Executive's Justice Department. Alistair Merrill, Head of Police Division 1 chaired later meetings. The main members of the working group were:

Dave Bell, the Scottish Executive
Alan McIlravie, ASPS
Mike Callaghan, COSLA (see note below)
Susan Clark, Edinburgh City Council
Tom Clark, Edinburgh City Council
Neville Dundas, COSLA/Scottish Borders Council
Stephen Fitzpatrick, COSLA (see note below)
John Fleming, SOLAR/North Lanarkshire Council
Alan Garbutt, COSLA/Glasgow City Council
Hugh Little, SPF
Geraldine McCann, COSLA/West Lothian Council
Robert Millar, SOLAR/Edinburgh City Council
Doreen Montgomery, COSLA/Glasgow City Council
Callum Percy, The Scottish Executive
Kenneth Scott, ACPOS
Teresa Stone, South Lanarkshire Council
Cara Urquhart, COSLA (see note below)

These COSLA members did not go to meetings at the same time as each other.

Other contributors

The Scottish Ministers are grateful for the input received from marching organisers such as the Orange Order, the Apprentice Boys of Derry and Cairde na hEireann.

Annex E

Glossary

ASPS	The Association of Scottish Police Superintendents
ACPOS	The Association of Chief Police Officers in Scotland
COSLA	The Council of Scottish Local Authorities
ECHR	The European Convention of Human Rights
HMSO	Her Majesty's Stationery Office
SOLACE	Society of Local Authority Chief Executives and Senior Managers
SOLAR	The Society of Local Authority Lawyers and Administrators in Scotland
SPF	Scottish Police Federation
SPICe	The Scottish Parliament Information Centre

Annex F

This report will go to the following organisations.

Ancient Order of Hibernians
Apprentice Boys of Derry
Association of Chief Police Officers Scotland
Association of Scottish Police Superintendents
Borders Common Ridings & Festivals Association
Cairde na hEireann
Chairman of the Accounts Commission
Chief Constables of Scotland's Police Forces
Chief Executive of the Cairngorms National Park Authority
Chief Executive of the Loch Lomond and The Trossachs National Park Authority
Chief Executives of Scottish local authorities
Chief Executive of COSLA
Equality Network
Federation of Small Businesses
Glasgow's First Flute Band Association
Grand Orange Lodge of Scotland
HM Chief Inspector of Constabulary
James Connelly Society
National Union of Students (Scotland)
Nil by Mouth
The Parades Commission for Northern Ireland
Pride Scotia (Glasgow)
Provincial Grand Black Chapter of Scotland
Scottish CND
Scottish Human Rights Centre
Scottish Police Federation
Scottish Trade Union Congress
Sense over Sectarianism
Sir John Orr
SOLACE Scotland
West of Scotland Band Alliance

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