



Consultation into Marches and Parades in Scotland.

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Introduction

1. This consultation paper asks for the views of march organisers and community organisations on how the recent changes to the way that marches and parades are handled has affected them. We want to know whether you think the changes have made a positive difference to how marches and parades are handled by local authorities and other bodies with statutory roles, and whether there is anything that could be done better.

2. Sir John Orr's Review of Marches and Parades in Scotland, was published in January 2005 (<http://www.scotland.gov.uk/Publications/2005/01/20583/50696>). His recommendations were the basis for the changes to the law made by the Police, Public Order and Criminal Justice (Scotland) Act 2006 ("the 2006 Act"). These changes came into force on 1 April 2007. In December 2006, the Working Group on Marches and Parades published a Report (<http://www.scotland.gov.uk/Publications/2006/12/06144246/0>) and Guidance for Scottish Local Authorities (<http://www.scotland.gov.uk/Publications/2006/12/06144351/0>), which between them explained the changes to the law and set out how local authorities would be expected to operate under the new conditions. We want your views on how local authorities and others have acted both under the new laws and under the guidance issued by the Working Group.

3. One of Sir John's recommendations was that "the Scottish Executive should ensure that there are effective monitoring arrangements in place to demonstrate that local authorities and police are implementing the new procedures in a way appropriate to their local circumstances with a regular public report produced." To implement this, we agreed to collect information from local authorities, police, march organisers, and community organisations to be included in a report published by autumn 2008. This consultation is part of that effort.

4. We are also seeking information and views from other sources to monitor the implementation of the new rules. We have sent out a questionnaire to local authorities asking for detailed information on the steps they have taken to put the rules into practice. This questionnaire is attached for information at Annex A. HM

Inspectorate of Constabulary (HMIC) will undertake a desktop review of police forces in June to find out what they are doing under the new processes. HMIC will also collect data on police activity which will form part of their annual statistical return in future. The results of all this activity will be included in the report which we aim to publish in October.

5. This information will also help to inform our equality impact assessment of this policy.

6. After the report is published, we will look at the findings and consider whether anything needs to be done to address any issues which have arisen. This may involve encouraging local authorities, the police, or other parties to take action in certain areas; or we may need to clarify some of the guidance. However, at this stage we are not minded to consider amending the law itself. There was extensive debate when the legislation was being prepared and considered in the Scottish Parliament and we think it is important to give the new rules and procedures time to bed in before making further changes. So please bear in mind, when sending in your views, that it is the local authority and police action in implementing the new laws on which we would like your comments, rather than on what you think the law should be. It may help, when considering your response to some of the questions in this paper, to look at the relevant sections of the Working Group's Report and Guidance, which we will refer to. A summary of the consultation questions is at Annex B.

7. The Foreword to the Working Group Report said:

"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... must be compatible with the right to freedom of assembly and association given under the ECHR."

8. This reflects one of the main objectives of the changes: to enable marches and parades to take place without having a disproportionate effect on the lives of the communities through which they pass. Your views will be extremely important in assessing whether the new rules and guidance are helping to achieve this.

Summary of changes

9. The legislative changes introduced on 1 April 2007, that your local authority must take account of are that:

- we have increased the minimum amount of notice that organisers must give to your local authority about their intention to march (from seven days to 28 days);
- we have removed the ability that a local authority previously had to exempt certain processions from the requirements to give notice;
- your local authority must consider a range of issues when deciding whether to prevent a procession or place conditions on it;
- your local authority must take account of whether a procession may place too much of a burden on the police;
- your local authority must take into account the effect that a previous procession had on public safety issues and how far those involved kept to any code of conduct or guidance; and
- your local authority must keep a list of processions that have been held in their area, or which have been prevented, to allow the public to see which processions happen regularly and which are likely to happen in the future.

10. The Guidance for Scottish Local Authorities mentioned in paragraph 2 above (from here on referred to in this document as “the guidance”) also made suggestions of best practice for local authorities when dealing with processions. We will explain those suggestions which are relevant to this consultation in this document, referring to the relevant paragraphs of the guidance where appropriate.

11. For this consultation, we have focussed on the following key areas which we think are of main interest to community and marching organisations. These are:

- availability of information on processions;
- involvement in the decision making process;
- local authority consideration of relevant factors in making decisions on processions; and
- formal exemptions for certain types of procession.

12. While the following sections are based on these areas. If you have views on any other aspects of the process which are not covered in this consultation or would like to comment on the process as a whole, there is a section at the end for you to express these.

Availability of Information on Processions

13. Various changes to the law, and recommendations in the guidance, were intended to make sure that communities and march organisers could easily access information about processions and the rules and procedures governing them, and contact the local authority. These are summarised below.

- To help improve communication between organisers and local authorities, the guidance recommends the creation of local authority ‘single gateways’ as a consistent and clear point of contact. (Paragraph 45)

- Your local authority **must** keep a list of processions that have been held in their area, or which have been prevented, to allow the public to see which processions happen regularly and which are likely to happen in the future. (Paragraphs 35-37 of the guidance and Paragraph 42 of the Working Group Report)
- The guidance recommends that each local authority maintains an opt-in list of organisations and individuals who wish to be kept informed of processions to be held in their area. (Paragraphs 51-54)
- The guidance recommends that each local authority puts together a 'how to' guide for procession organisers to help them with planning and arranging events in their area. (Paragraph 41)

It also recommends that voluntary codes of conduct be created or adopted between local authorities, police, and organisers of processions, to ensure that everyone knows what is to be expected of the march. (Paragraphs 43-44)

14. The local authority or authorities with which you or your organisation regularly deals may have adopted some or all of these measures in the last year. We will collect information about their processes directly from the local authorities, but we would like to know whether you feel that the current processes are sufficient, and whether there has been a positive difference from what happened before April 2007.

Question 1 - Do you feel that there is enough information available about past and future processions in your area? If not, why not?

Question 2 - How do you access information about past or future processions in your area? This may involve the sources listed below:

- **Information in local libraries**
- **Information in council offices**
- **Information in council publications**
- **Lists on lamp posts**
- **Via community representatives, interest groups or opt-in lists**
- **Local newspapers or newsletters**
- **Local authority website**

Question 3 - Are you able to receive this information in a format which is easily accessible to you (for example, in community languages and alternative formats, clearly signposted through local authority websites)?

Question 4 - Have the changes made since April 2007 made a difference to the amount of information available to you on processions? If so, what difference?

Involvement in the Decision-Making Process

15. It is important that those with an interest in the decision on a particular procession are able to be involved in the decision-making process if they wish. The

points below explain how the changes made in April 2007 were designed to ensure this.

- Although no specific requirements to consult communities were added by the new laws, the guidance recommended using existing processes, including the community planning process, to consider issues arising from processions. (Paragraphs 55-57)
- It suggested giving those who wish to express their views about a procession the opportunity to do so. (Paragraphs 52 and 58-59)
- The guidance recommends that the local authority should explain the decision-making process they follow and the conditions they have to keep to when making decisions to anyone with an interest. (Paragraph 55)
- The guidance also recommended inviting members of community groups to any precursory meetings and debriefing meetings with march organisers before and after processions. (Paragraphs 60 and 65)

Question 5 - Do you think that you are given enough opportunity to make representations to the local authority about processions planned in your area?

Question 6 - How have you been involved in local authority decision-making on processions? Do you think this could have been improved and, if so, how?

Question 7 - Are you able to express your views to local authorities in a manner appropriate to you?

Consideration of Relevant Factors in Making Decisions on Processions

16. It is important that local authorities take into account all the appropriate and relevant factors when deciding whether conditions should be placed on a procession or if it should be stopped. Everyone involved needs to understand these decisions, and these should be made and communicated in good time.

17. Your local authority **must** consider a range of issues when deciding whether to prevent a procession or place conditions on it. From April 2007, these factors are:

- public safety;
- public order;
- damage to property;
- disruption to the life of the community;
- whether or not the procession would place an excessive burden on the police and;
- the conduct of previous processions by the same organiser

18. The cost of policing the procession is **not** a valid consideration. When considering disruption to the life of the community, the main question is whether the level of disruption which will, or may, be caused by a procession will be far greater

than the right to free assembly. Paragraphs 26-34 of the guidance explain these requirements further.

19. Of course, the local authority's decision in each case must balance the right under Article 11 of the ECHR to freedom of peaceful assembly against the need to protect national security or public safety; prevent disorder or crime; protect health or morals; or protect the rights and freedom of others (see paragraph 10 of the guidance).

20. The guidance makes a number of recommendations, building on good practice around the decision-making process which are summarised below:

- A suggested 'Step by Step' guide for taking decisions on procession notifications (Part 3);
- Drafting 'how to' guides for organisers explaining how to go about organising a parade (Paragraph 41);
- Drafting codes of conduct for organisers to follow during the parade (Paragraph 43);
- Holding precursory and debriefing meetings before and after the parade (Paragraphs 60-61 and 65);
- Making a risk assessment of holding the procession against the factors described above (Paragraph 62);

Question 8 - Do you think that the local authority takes all the relevant factors (described at paragraph 17 above) into account when making decisions on processions?

Question 9 - Are these decisions communicated clearly and in advance of the procession to those with an interest in them? Do you understand the reasons given for making these decisions?

Question 10 - To what extent do you feel that local authorities appropriately balance the rights of marchers and the rights of communities?

Question 11 - Do you think that appropriate conditions are placed on processions by local authorities?

Formal Exemption from the Notification Process

21. From April 2007, all organisers apart from funeral directors must give notice of their intention to hold a procession to the local authority. The 2006 Act allows the Scottish Ministers to exempt certain types of procession from this requirement. This would be done if a local authority presented a case for a particular procession to be exempted – see paragraphs 23-25 of the guidance. So far, no such case has been made.

Question 12 - Do you think there are any types of procession which should be exempted from the notification process? If so, have you discussed this with your local authority?

General

22. This section gives you the chance to comment on areas which have not been covered by the specific questions asked above, and on the marches and parades process as a whole.

Question 13 - Are there any other parts of the rules and procedures on marches and parades which you would like to comment on?

Question 14 - Do you have any general comments on how the process is working as a whole?

Question 15 - In general, do you feel that the process is better or worse than it was before the new processes? Please give reasons for your answer.

Responding to this consultation paper

23. We are inviting written responses to this consultation paper by 29 August 2008. Please send your response to: Marchesandparades@scotland.gsi.gov.uk or to Police Powers and Duties Team, 1WR, St Andrews House, Regent Road, Edinburgh EH1 3DG. Alternatively, you can use the online response form available on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>. If you have any queries please contact Andy Watson on 0131 244 3222.

24. We would be grateful if you could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will help our analysis of the responses received.

25. This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

26. The Scottish Government now has an email alert system for consultations (SEconsult: <http://www.scotland.gov.uk/consultations/seconsult.aspx>). This system allows stakeholders individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SGconsult complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

27. We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form at Annex C as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore

have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

28. Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available to the public in the Scottish Government Library and on the Scottish Government consultation web pages. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

29. If you have any comments about how this consultation exercise has been conducted, please send them to us via the contact details above.

Question 2: Has your Local Authority prepared a “How To” guide? (See paragraphs 41 and 42 of the Guidance to Local Authorities).

Yes/No (delete whichever does not apply)

Supporting comments (i.e. please describe what your Local Authority’s “How To” guide contains etc or tell us why a guide has not been prepared)

Question 3. Has your Local Authority prepared a Code of Conduct (See paragraphs 43 and 44 of the Guidance to Local Authorities).

Yes/No (delete whichever does not apply)

Supporting comments: (i.e. please describe what your Local Authority’s Code of Conduct contains etc or tell us why a Code has not been prepared)

Question 4: Has your Local Authority established a single gateway process?

Yes/No (delete whichever does not apply)

If yes, please describe how the single gateway process operates:

If you have answered no, please provide supporting comments:

Question 5: What publicity methods does your Local Authority use for advertising the lists of processions kept under section 63(9) of the 1982 Act? (See paragraph 36 of the Guidance to Local Authorities for options). Please insert a cross in **all** of the following boxes that apply:

- lists of processions are provided to local libraries
- lists are publicised in council offices
- lists are publicised in council publications
- lists are put on lampposts
- lists are circulated to community representatives
- lists are sent directly to those on our opt-in list, key interest groups and so on
- press releases are issued to local newspapers and freesheets
- lists are placed on our website
- lists are advertised in newspapers on a regular basis
- Other (please provide details in the space below

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Question 6: Does your Local Authority share its experiences about processions with other local authorities and other interested bodies such as the police, national park authorities etc (See paragraphs 47 to 50 of the Guidance to Local Authorities).

Yes/No (delete whichever does not apply)

If yes, please insert a cross in any of the following boxes that apply:

- information is provided via links on our website
- information is provided via e-mail exchanges
- information is shared through face to face meetings
- information is not shared
- Other (please provide details below

.....
.....
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If you have answered no, please provide comments:

Question 7: Does your Local Authority keep an opt in list? (See paragraphs 51 to 54 of the Guidance to Local Authorities).

Yes/No (delete whichever does not apply)

Please provide supporting comments

Question 8: Have methods been introduced to keep communities informed of what is going on in their area? (See paragraphs 55 to 58 of the Guidance to Local Authorities).

Yes/No (delete whichever does not apply)

If yes, please insert a cross in any of the following boxes that apply:

we use the processes in the Local Government in Scotland Act 2003 to consider how public service could be provided for public processions which take place regularly

we publicise the lists of processions required under section 63(9) of the 1982 Act)

we provide information to those who ask for it about forthcoming processions

we invite people and representatives of organisations who have made representations about any procession to council committee or debriefing meetings

Other (please provide details in the space below)

.....

.....

If you have answered no, please explain why methods have not been introduced:

Question 9: Does your Local Authority hold precursory meetings with the police and the organiser for most of the processions held in the area? (See paragraphs 60 and 61 of the Guidance to Local Authorities)

Yes/No (delete whichever does not apply)

If yes, please provide some supporting comments on how these are working:

If no, please provide reasons why meetings would not take place:

Question 10: Do you ask the majority of organisers to undertake a risk assessment? (See paragraph 64 of the Guidance to Local Authorities)

Yes/No (delete whichever does not apply)

If you have answered no, please explain why risk assessments are not asked for:

Question 11: If you have answered yes to question 10, please tell us in the box below what information is sought by the Local Authority in that risk assessment to help it reach a decision on whether the march can go ahead with or without conditions. (See paragraph 64 and Annex C of the Guidance to Local Authorities)

Response:

Question 12: Has your Local Authority implemented the following elements of good practice, as recommended in paragraph 66 of the Guidance to Local Authorities?

a) Has your Local Authority held discussions with organisers about the possibility of re-routing some marches in future and/or combining some of them to reduce the volume (see paragraphs 69 to 72 of the working group's report)?

Yes/No (delete whichever does not apply)

Please provide supporting comments:

b) Has your Local Authority been working with the police on keeping statistics of the number of processions taking place and how to work out the associated police costs (see paragraphs 96 to 99 of the working group's report)?

Yes/No (delete whichever does not apply)

Please provide supporting comments:

c) Has your Local Authority, the police and the organiser discussed the content of the organiser's codes of conduct, if this applies, to make sure that it reinforces the behaviour expected of those taking part (see paragraphs 108 to 112 of the working group's report)?

Yes/No/Does not apply (delete whichever does not apply)

Please provide supporting comments:

d) Does your Local Authority already have byelaws in place to prevent people from drinking alcohol in public places?

Yes/No (delete whichever does not apply). **If you have answered yes to this question please ignore question e).**

e) If your Local Authority does **not** have byelaws in place to prevent people from drinking alcohol in public places, is it working with the police to consider whether it would be necessary to put such byelaws in place (see paragraphs 124 to 125 of the working group's report)?

Yes/No (delete whichever does not apply)

Please provide supporting comments:

SECTION 3: STATISTICAL DATA

Background

Limited information was previously available about the number of marches and parades taking place in Scotland. The 1982 Act has therefore been amended (sections 63(9) and (10) of the 1982 Act refer) so that local authorities are required to keep information on processions. This section of the questionnaire asks you for a note of the statistical data that is being held by your Local Authority since the legislation was changed so we can provide information in our report on the number of marches and parades held across Scotland each year and the costs involved in policing them.

Data kept under section 63(9) of the 1982 Act

Local authorities have a duty under section 63(9) of the 1982 Act to compile, maintain and make available to the public a list containing information on notified processions which have been held in their area since the legislation came into force on 1 April 2007 and those which have been prohibited. You are asked to summarise the information that your Local Authority has collected under this section of the 1982 Act into table 1 at **Annex A** for data kept under section 63(9)(a) of the 1982 Act and table 2 at **Annex B** for information kept under section 63(9)(b) of the 1982 Act.

Data kept under section 63(10) of the 1982 Act

Local authorities have a duty under section 63(10) of the 1982 Act to make arrangements to ensure that anyone who makes a request can receive information on processions which are about to be or may be held in their area. We see no benefit in seeking this information as it will be out of date and of little relevance by the time the Government's report is published.

Nevertheless, it would be useful if you could provide a brief description in the box below of the information that your Local Authority routinely keeps. We are looking for comments on such things as the format that the information is kept in, whether it invites the views of the public on each procession, how often the information is updated etc. It would also be useful if your Local Authority could forward examples of any lists it may keep with this questionnaire:

Please provide comments:

Exemptions from the notification process - section 62(5) the 1982 Act

Section 62(5) of the 1982 Act allows local authorities to dispense with the 28-day notification period, as and when necessary. Ministers would advise that they expect the notification period to only be waived by local authorities **in exceptional circumstances**, for example where an organiser wants to arrange a march in

reaction to a recent decision or announcement (e.g. where a factory was to close down). This would allow organisers of events; say in response to a political announcement, an economic decision or a local decision, not to give the required 28 days notice.

We would like to know how many organisers have sought and received an exemption from the notification process and you are asked to complete this information in table 3 below:

Table 3: Processions exempted from the notification process for the period 1 April 2007 to 31 March 2008

ORGANISATION	NUMBER OF EXEMPT PROCESSIONS
Orange marches	
Republican marches	
Trade Union marches	
Other (where possible, please provide the names of the organisations that have been made exempt)	
Totals	

Please also give a brief summary in the box below of the most common reason(s) why exemptions to the notification process may have been allowed under section 62(5) of the 1982 Act in the case of the marches identified in table 3:

<p>Comments:</p>
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Police costs

Paragraphs 97 and 98 of the Working Group's report recommends that local authorities and the police should liaise with each other on the costs associated with

policing marches and parades. It is, of course, not possible to prohibit a procession on the grounds of police costs alone, but it is important for your Local Authority to keep this data so that organisers and the public are aware of how much marches and parades cost the public purse. You should therefore be receiving regular information from your police contacts (see paragraph 98 of the Working Group's report) so that you can compile figures into a statistical table and publish it, if desired. You are asked to provide summarised information in table 4 below:

Table 4: Total police costs for all processions held in the year 1 April 2007 to 31 March 2008:

Name of police authority (please add in more rows, if necessary for any other police forces that may fall within your Local Authority area)	Total number of parades held	Total number of police hours required for policing parades	Cost per hour of police time	Total cost to the police force for policing parades (based on police hours, other resources used etc)

SECTION 4

Whom to return the completed questionnaire to

Please return the completed questionnaire **by 29 August 2008** and post or e-mail it to:

Andy Watson
Scottish Government
Police Powers, Performance and Resources Division
Room 1WR
St Andrew's House
EDINBURGH
EH1 3DG
e-mail:

If you have any queries, please phone 0131-244-3222

ANNEX A

STATISTICAL DATA: INFORMATION COLLECTED BY YOUR LOCAL AUTHORITY UNDER SECTION 63(9) OF THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982

Table 1: Information required for the table below refers to section 63(9)(a) of the 1982 Act and data should be provided for the number of processions which were **allowed to go ahead** (with or without conditions) each month over the period 1 April 2007 to 31 March 2008:

ORGANISATION	April 2007	May 2007	June 2007	July 2007	August 2007	Sept 2007	Oct 2007	Nov 2007	Dec 2007	Jan 2008	Feb 2008	March 2008
Orange marches												
Republican marches												
Trade Union marches												
Other												
Totals												

ANNEX B

SUMMARY OF CONSULTATION QUESTIONS

Availability of Information on Processions

Question 1 - Do you feel that there is enough information available about past and future processions in your area? If not, why not?

Question 2 - How do you access information about past or future processions in your area? This may involve the sources listed below:

- Information in local libraries
- Information in council offices
- Information in council publications
- Lists on lamp posts
- Via community representatives, interest groups or opt-in lists
- Local newspapers or newsletters
- Local authority website

Question 3 - Are you able to receive this information in a format which is easily accessible to you (for example, in community languages and alternative formats, clearly signposted through local authority websites)?

Question 4 - Have the changes made since April 2007 made a difference to the amount of information available to you on processions? If so, what difference?

Involvement in the Decision-Making Process

Question 5 - Do you think that you are given enough opportunity to make representations to the local authority about processions planned in your area?

Question 6 - How have you been involved in local authority decision-making on processions? Do you think this could have been improved and, if so, how?

Question 7 - Are you able to express your views to local authorities in a manner appropriate to you?

Consideration of Relevant Factors in Making Decisions on Processions

Question 8 - Do you think that the local authority takes all the relevant factors (described at paragraph 17 above) into account when making decisions on processions?

Question 9 - Are these decisions communicated clearly and in advance of the procession to those with an interest in them? Do you understand the reasons given for making these decisions?

Question 10 - To what extent do you feel that local authorities appropriately balance the rights of marchers and the rights of communities?

Question 11 - Do you think that appropriate conditions are placed on processions by local authorities?

Formal Exemption from the Notification Process

Question 12 - Do you think there are any types of procession which should be exempted from the notification process? If so, have you discussed this with your local authority?

General

Question 13 - Are there any other parts of the rules and procedures on marches and parades which you would like to comment on?

Question 14 - Do you have any general comments on how the process is working as a whole?

Question 15 - In general, do you feel that the process is better or worse than it was before the new processes? Please give reasons for your answer.

