

NORTH LANARKSHIRE COUNCIL

REPORT

To: GENERAL PURPOSES COMMITTEE		Subject: REVIEW OF MARCHES AND PARADES IN SCOTLAND: REPORT BY SIR JOHN ORR
From: DIRECTOR OF ADMINISTRATION		
Date: 3 March 2005	Ref: JAF/IL	

1. **Purpose of Report**

- 1.1 The report advises the Committee of the publication of a report following the conclusion of a review commissioned by the First Minister into marches and parades in Scotland and summarises the contents of that report.
- 1.2 The report advises, also, of the issue, by the Scottish Executive, of a consultation paper entitled "Supporting Police, Protecting Communities: Proposals for Legislation" which includes proposals for legislation to implement recommendations contained in that report.

2. **Background**

- 2.1 In June 2004 the First Minister appointed the former Chief Constable of Strathclyde Police, Sir John Orr, to undertake an independent review of marches and parades in Scotland. That review has now been concluded and the report has been submitted and published.
- 2.2 The report has been welcomed by Scottish Ministers, but detailed proposals for implementation of the recommendations have not as yet been produced.
- 2.3 The Scottish Executive have, however, now issued a consultation paper entitled "Supporting Police, Protecting Communities: Proposals for Legislation". That consultation paper addresses a number of issues, and included among those issues are proposals for legislation with regard to marches and parades.

3. **Report**

- 3.1 The report by Sir John Orr – which, together with appendices, extends to over 300 pages – was issued together with a Scottish Executive Social Research Paper produced by TNS Social who were commissioned to undertake a survey to explore the views and experiences of a broadly representative sample of the Scottish population. A copy of the report, together with a copy of the Scottish Executive Social Research Paper has been deposited and may be viewed in the Members' Library.
- 3.2 The report by Sir John Orr, proceeds on the basis of extensive research and wide-ranging consultation. That consultation included consultation with local authorities – in which North Lanarkshire Council participated fully and constructively. Following that process, the report contains recommendations which fall into the following categories:

- Recommendations on Period of Notice

The report recommends extending the period of notice from 7 to 28 days, while recommending that Councils should, in certain circumstances, have the power to dispense with or shorten the period of notice.

The report recommends, also, withdrawal of the current power to exempt organisations from the requirement to give notice.

The report contains detailed recommendations as to action local Councils should take throughout the 28 day period – and the implication of the report is that such action will be mandatory on local authorities and will require to apply to all public processions.

Finally in this section there is recommended a requirement on Councils to keep very full records and a recommendation that the Scottish Executive should ensure that there are effective monitoring arrangements in place to demonstrate that local authorities are implementing the new procedures.

- Informing the Community

In this section the report suggests that the local authority should maintain an annual digest of processions which take place and should update regularly that digest.

In its discussion on involving the community, the report identifies the limitations on the extent to which the views of the community can translate into decisions while making recommendations on informing, consulting with and taking into account views expressed by the community.

- Decision Making

The basic recommendation of the report is that local authorities should continue to be responsible for making decisions on public processions and paragraphs 14.10-14.20 address this aspect of the matter.

Paragraph 14.11 refers to Article 11 of the European Convention on Human Rights and, in particular, the following portion:

“No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others”.

Paragraph 14.11 goes on to identify that, to be necessary in a democratic society, a restriction should correspond to a “pressing social need”, should be proportionate to the aim pursued and should be justified by relevant and sufficient reasons.

Paragraph 14.18 of the report lists the issues which it considers local authorities can competently take into account. These are:-

- ◇ The risk of serious public disorder;
- ◇ The risk to public safety;
- ◇ The risk of serious damage to property;
- ◇ The risk of serious disruption to the life of the community;

- ◇ The risk of serious disruption to pedestrian and vehicular traffic;
- ◇ The risk of serious disruption to business;
- ◇ The risk of intimidation;
- ◇ The presence of environmental hazards;
- ◇ Health and safety issues.

Paragraph 14.31 recommends that local authorities issue “a permit to process”. Elsewhere the report recognises that local authorities do not grant permission for parades, and that organisations need no such permission – and the report contains no recommendation that the law in this respect should be changed.

Finally, there is a recommendation that local authorities be required to hold debriefing meetings in the case of every procession.

- **Number of Parades and Effects on Communities**

None of the recommendations made by the report for limiting the number of processions relate to any additional power proposed for local authorities. The report implicitly acknowledges that the only way to limit the number of processions is through voluntary action by the organisers.

4. Considerations

4.1 With regard to recommendations on period of notice

- it is not clear that there is justification for changing the law to limit, in any way, the power of a local authority to grant exemptions from the notice period;
- similarly it is not clear that there is justification for the recommendation that the current power to exempt organisations from the requirement to give notice be withdrawn;
- the recommendations as to action to be taken by local Councils within the notification period would, if accepted, have very significant resource implications, particularly in the case of Councils such as North Lanarkshire in which there are, currently, a large number of notifications.

4.2 With regard to the recommendations on involvement of the community, the report identifies the limitations on the extent to which the views of the community can translate into decisions. In particular in paragraph 13.9 of the report, it is stated

“It is also important that the public understands what they can influence. It is clear under human rights legislation that views which differ from the majority view should be heard. Prohibiting a procession simply because the group represents a view that annoys or gives offence to others is inappropriate in a democracy. Local authorities should not be making decisions on what legal organisations stand for but on the risk and impact of the procession. They might conclude that the risk and impact would be mitigated if there was a change to the route or other conditions applied. People need to be clear that, simply because they do not personally like an organisation, that is insufficient reason for a ban. Without that understanding about the context and what they can influence, people will naturally be frustrated if they feel that their views are not being taken into account”.

There is, however, a danger that this identification of limitations is not reflected in the report's recommendations on consultation arrangements and community views.

The report suggests that local authorities feel that they cannot at present take account of the views of the community. It is doubtful if that is, indeed, the case – at present local authorities can take account of any relevant fact no matter who brings it forward. The difficulty is not the source of representations but, rather, the relevance of recommendations having regard to the limited range of factors which can be taken into account in determining whether it is possible to interfere with the right to hold a public procession.

- 4.3 With regard to decision-making it is accepted, from the contents of the report, that community views alone are insufficient to justify interference with a right to march. Unless this fact is made clear, however, there is a danger that a false impression will be given that community views can carry very much greater weight than, in fact, is possible under current legislation.

Against the background that no person proposing to hold a procession in public requires to seek the permission of a local authority, the recommendation that local authorities should issue "permits" is inappropriate – the issue of 'permits' is likely to give a false impression that any procession taking place does so with the approval and consent of the local authority, and implies a degree of responsibility on the local authority which is, in no way, matched by local authorities' powers.

5. Further Action

- 5.1 The consultation document "Supporting the Police, Protecting Communities: Proposals for Legislation", while covering wider areas, includes proposals for legislative changes to implement in part the recommendations of the report by Sir John Orr. Given the wide-ranging nature of that consultation document, a report thereon will be submitted, for consideration, to the next meeting of the Policy and Resources Committee.
- 5.2 In the interim the Scottish Executive propose, also, the establishment of a Joint Working Group to be chaired by the Scottish Executive and to involve local authorities and police with a view to making early progress on some recommendations for marches taking place in 2005. It is proposed that the Council engage constructively with that Joint Working Group.

6. Recommendation

- 6.1 It is recommended that the Committee note the position.


Director of Administration

Members seeking further information on the contents of this report are asked to contact John Fleming, Head of Central Services on Extension 2228.