

REPORT

To: GENERAL PURPOSES COMMITTEE	Subject: CIVIC GOVERNMENT (SCOTLAND) ACT PUBLIC PROCESSIONS	
From: DIRECTOR OF ADMINISTRATION		
Date: 9 March 2007	Ref: JAF/IL	

1. Purpose of Report

- 1.1 The report submits, for the consideration of Committee, proposals for the discharge of the Council's responsibilities with regard to public processions in terms of the Civic Government (Scotland) Act 1982 as amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006 and the statutory Guidance issued by Scottish Ministers under Section 65A of that Act.

2. Background

- 2.1 The Committee, at previous meetings, has noted the action being taken by the Scottish Executive following the review of marches and parades in Scotland – including the amendments to the Civic Government (Scotland) Act – and, at its meeting on 10 January 2007, noted the contents of the statutory Guidance issued by the Scottish Ministers. It is now necessary to give consideration to action required to discharge the Council's responsibilities.

3. Statutory Position

- 3.1 The amendment to the legislation provides the Council with no new powers to regulate or restrict public processions, but the effect of the amended legislation and the statutory Guidance is such that the procedures adopted by the Council for consideration of issues with regard to public processions require further consideration.

- 3.2 While the Act provides no new powers to the Council, it does set out, in detail, considerations to which the local authority should have regard when reaching decisions as to whether to prohibit the holding of a proposed procession or to impose conditions on it. Those considerations are:-

- (a) The likely effect of the holding of the procession in relation to

- (i) public safety
- (ii) public order
- (iii) damage to property
- (iv) disruption of the life of the community;

- (b) The extent to which the containment of risks arising from the procession would (whether by itself or in combination with any other circumstances) place an excessive burden on the police;

- (c) Whether the person proposing to hold the procession has previously held one in the area of the authority or the persons likely to take part in the procession, or some of them, are the same persons as took part in one previously held in that area or some of them –
- (i) where the previous procession was held in breach of a prohibition under this Section on its being held or of a condition so imposed on the holding of it;
 - (ii) whether any Guidance or code of conduct issued by the authority as to the holding of the previous procession or as to the holding of processions generally was followed; and
 - (iii) the effect of the previous procession in relation to public safety, public order, damage to property or disruption of the life of the community or in relation to excessive burden on the police.

3.3 The amendment to the Act does, however, give the Scottish Ministers power to issue Guidance to which local authorities are by statute required to have regard. As previously reported to Committee, that Guidance contains prescriptive details of procedures to be followed by local authorities, but the first section of the Guidance – paragraphs 5-8 – indicates that local authorities may wish to categorise notifications to separate proposed processions which are considered to be low key, non-contentious or routine from other proposed processions and to exercise discretion as to the extent to which such processions require to follow the full prescribed procedure.

3.4 Section 1 of the Guidance relates to the legislative changes. Principal legislative changes, in addition to the identification of issues to be taken into account in reaching decisions on processions are

- Increase in the period of notice to be given from 7 to 28 days;
- Removal of local authority's power to exempt processions from the requirement to give notice;

and

- Requirement to keep a list of processions which have been held or which, by order, have been prevented.

3.5 Paragraphs 26-34 of the Guidance give further guidance on issues to be taken into account.

3.6 Paragraph 35 addresses in detail the duty imposed by the Act to compile and make available to the public a list of processions which have been held in the area and a list of processions which have been prohibited.

3.7 Paragraph 38 of the Guidance refers to the duty, now contained within the Act, to make arrangements to make sure that anyone who asks for information on processions to be held should receive appropriate information – and this paragraph recommends that, to do so, the local authority compile list of processions which are or might be held in the area and, in providing information to anyone who asks, should indicate that representations with regard to any proposal should be made within a prescribed time frame. This is reflected also later in the Guidance – in paragraphs 51-54 – in which it is recommended that each local authority create and update an “opt-in” list of organisations and individuals who seek to be informed about future processions. The suggested inclusions in such a

list are local groups like residents' and tenants' associations, community councils, MPs and MSPs, voluntary organisations and tourist information centres.

3.8 The remainder of the Guidance contains a variety of prescriptions including

- Production of a “how to” guide as a reference document for organisers to plan and arrange events;
- Creation of codes of conduct;
- Identification of a first point of contact within each organisation for processions;
- Requirement to share information with other local authorities and the police;
- Requirement to make publicly available lists of proposed processions and prescribe time limit for receipt of representations;
- Requirement to hold precursory meetings involving the Council, the police and the organisers;
- Requirement on the Council to determine if the organiser should be required to conduct a full risk assessment;
- Requirement to conduct debriefing meetings involving the police, organisers and community organisations and other organisations and individuals who have made representations either prior to or following the holding of the procession;
- Requirement to keep statistics on the number of processions taking place and the associated police costs.

4. **Proposals**

4.1 The current procedures for public processions were adopted by the Council in 1996. They involve receipt of intimation, consultation with Strathclyde Police and the local member(s) and, in the event that either a local councillor or the Chief Constable objects to a proposed procession, consideration of the matter by a Sub-Committee of the General Purposes Committee. Given the new responsibilities and prescriptions imposed on the Council, those procedures will require to be reviewed.

4.2 As indicated above, the Guidance provides the Council with power to categorise proposals and to determine the extent to which each proposal requires to be subject to the full detailed procedures specified in the statutory guidance. It is recommended that there be delegated to the Director of Administration and the Head of Central Services authority to make that decision in respect of each notification and to determine the extent to which the detailed procedures require to apply.

4.3 The enhanced specification of considerations of which a local authority can take account in determining matters with regard to public processions carries the advantage of ability to determine, at an early stage, whether an individual representation contains relevant matters of which the local authority can take account. Against that background, it is recommended that power be delegated to the Director of Administration and the Head of Central Services to determine, with regard to each individual representation, whether there is contained therein relevant matters of which the local authority can take account.

4.4 It is recommended, also, that there be delegated to the Director of Administration and the Head of Central Services power to determine a range of other matters including

- the methods by which the statutory list of processions which have been held or have been prohibited is made available to the public and the methods by which the Council addresses the proposal that there be made publicly available a list of processions which are to be, or may be held in the area;
- power to determine whether an organiser should be required to conduct a full risk assessment;
- following consultation with the Chief Constable and the Convener of the Committee, authority to exercise on behalf of the Council the power, in respect of any individual proposal, to dispense with the requirement for notification.

4.5 Having regard to those delegations it is proposed that responsibility for operation of the revised procedures with regard to public processions rest with the Department of Administration and that, in any instance in which representations are made with regard to a proposed procession and in which delegated power has not been exercised to determine that those representations contain no relevant material of which the Council can take account, the matter fall to be considered by the General Purposes (Public Processions) Sub-Committee.

5. Code of Conduct

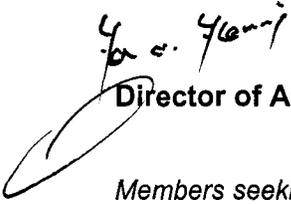
5.1 As indicated above there is now a requirement on the Council to develop a Code of Conduct. It is considered that this code should be adopted by the Council only following consultation with Strathclyde Police and attached as an appendix to this report is a draft Code of Conduct. It is proposed that consultation now be initiated with Strathclyde Police and thereafter a further report be submitted to the Committee on a proposed Code of Conduct.

6. Resource Implications

6.1 The implementation of these procedures has resource and staffing implications and the Committee, at its meeting in January of this year, noted with some concern the limited resources being made available by the Scottish Executive for this purpose. That funding, together with other funding now available, does however enable the Council to put in place some staffing resources – and later in the agenda of this meeting is a report containing staffing proposals.

7. Recommendation

7.1 It is recommended that the Committee note the position and give consideration to the foregoing proposals.


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.

APPENDIX

- (1) A minimum of 28 days notice will be given to the police and the Council of the intention to hold a procession. This is a statutory requirement and sets out the minimum period of notice – and only in exceptional circumstances can a public procession take place without this period of prior notice. In every possible case a greater period of notice should be given and notification should be made as early as possible in any instance in which a series of similar processions is proposed.
- (2) The organiser shall co-operate with the Council and the police from the time of submission of the notification of intention to hold a procession until the procession disperses.
- (3) The organiser shall identify him or herself to the police officer in charge immediately on the assembly of the procession.
- (4) The organiser shall ensure that, in the event of the procession being cancelled, the Council and police are informed of this promptly and that the cancellation is confirmed in writing to the Council within 48 hours.
- (5) The organiser shall ensure that all participants are informed of any condition imposed on the procession including any condition regarding change to timing or route.
- (6) The organiser shall ensure that any person under the influence of alcohol or drugs does not participate in the procession.
- (7) There requires to be one steward or marshal to each ten procession participants and the organiser shall ensure that all stewards and marshals
 - are briefed by the organisers and given guidance and instructions on their role prior to the procession;
 - carry proof of their status;
 - co-operate with the police as required;
 - are highly visible and easily identifiable;
 - conduct themselves in a proper manner;
 - ensure that participants comply with directions regarding their own public safety and that of all other members of the public.
- (8) The organiser shall take responsibility for the behaviour of all participants including followers and, where appropriate, bands and for ensuring general compliance with the Council's Code of Conduct on public processions and police instructions.
- (9) The organiser shall ensure that the behaviour of participants is not such as can be reasonably perceived to be aggressive, threatening, abusive, homophobic, sectarian or racist;
- (10) The organiser shall ensure that, wherever possible, proposed routes follow main roads and do not go through residential housing developments;
- (11) The organiser shall ensure that all participants do not march more than four abreast and that they keep to the near or left-hand side of the street except on one way streets where they shall keep to the right-hand side;
- (12) The organiser shall ensure that the police are assisted in guaranteeing that passage is allowed for traffic and pedestrians;

- (13) The organiser shall ensure that the procession is split into sections in order to avoid serious dislocation of traffic and to facilitate the crossing of pedestrians who have a right of free access and passage to and through any public area;
- (14) The organiser shall ensure that all playing of music ceases when approaching and passing places of worship as instructed by the police and, without prejudice to the foregoing generality, whenever services are in progress;
- (15) The organiser shall ensure that all participants disperse immediately the procession concludes.
- (16) The organiser shall ensure that all participants behave with due regard for the rights, traditions and feelings of others in the vicinity of the procession, particularly in any area in which there has, on any previous occasion, been public disorder in relation to processions;
- (17) The organiser shall ensure that all participants behave with due respect at sensitive areas such as areas adjacent to places of worship;
- (18) All participants must obey the lawful direction of procession organisers, stewards and the police at all times;
- (19) All participants must keep to the designated route as directed by the police;
- (20) All participants must refrain from consuming alcohol or drugs prior to or during the procession;
- (21) No flags relating to proscribed organisations or which are likely to cause offence shall be displayed;
- (22) All participants in processions shall disperse in good order immediately the procession concludes;
- (23) No halberds or weapons of any description shall be carried;
- (24) No obstruction shall be caused;
- (25) No procession shall commence before the hour of 7.30 am and no procession shall conclude after the hour of 9.00 pm;
- (26) Unless specifically stipulated in the notification, no band shall play or music shall be played before 9.00 am or after 6.00 pm.
- (27) The procession and all participants shall comply with all legal requirements including, without prejudice to the foregoing generality
 - Section 62 of the Control of Pollution Act 1974 in relation to the use of loudspeakers;
 - The Public Order Act 1986 in relation to the prohibition of wearing of uniforms signifying association with any political organisations etc;
 - North Lanarkshire Council Byelaws Prohibiting the Consumption of Alcohol in Designated Places 2002.