

# **Scottish Government Response to the Review of the 2016 Independent Report on Marches, Parades and Static Demonstrations in Scotland**

**Published June 2020**

**June 2020**



**Scottish Government**  
Riaghaltas na h-Alba  
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## Ministerial Foreword



Protecting our rights to freedom of assembly, celebration of culture and right to demonstrate and protest through marches, parades and static demonstrations is of paramount importance in all modern democracies and Scotland is no exception. We do not have to agree with each other to recognise the importance of protecting each other's rights to free speech and expression, but we do need to recognise that such rights are not absolute and there is a balance to be struck between exercising our own rights and infringing on those of others.

Scotland is a diverse multicultural society where the vast majority of marches, parades and static demonstrations pass off peacefully and without incident. We need to ensure that the processes which are in place for authorising such events are fit for purpose to allow everyone to exercise their right to peaceful participation in marches, parades and static demonstrations, and cannot tolerate the disorder, violence and other unlawful activity which can so easily mar otherwise legitimate events.

In 2016 the Scottish Government published the findings of the independent review undertaken by Dr Michael Rosie, Senior Lecturer in Sociology at the University of Edinburgh on Marches, Parades and Static Demonstrations in Scotland. In recognition of the fact that circumstances have moved on since 2016, I asked Dr Rosie to carry out a further review on the progress made since his 2016 report including consideration of legislation, guidance and other processes associated with marches, parades and static demonstrations. I am keen to see how action might be progressed on the 7 recommendations which Dr Rosie has set out, and hope that all organisations will work together to make the improvements identified.

I would like to thank all the parties who met with Dr Rosie or who contributed to his review in any way, and am extremely grateful to Dr Rosie for all his time and hard work in undertaking the review. The review contains sound, practical advice and the Scottish Government will give full consideration to the 7 recommendations which have been made and will continue to work with march and parade organisers, Police Scotland and local authorities to improve the organisation and running of these events and ensure that appropriate action is taken to maintain order and public safety.

The review provides a good basis for constructive dialogue and cooperative work based on mutual respect to achieve our shared goal of exercising our rights in a peaceful and respectful way.

A handwritten signature in black ink, appearing to read 'H. Yousaf'.

**Humza Yousaf**  
**Cabinet Secretary for Justice**

## **Background**

1. In 2015, Dr Michael Rosie, Senior Lecturer in Sociology at the University of Edinburgh, was asked by the Scottish Government to provide independent advice to Ministers on marches, parades and static demonstrations in Scotland. Prior to 2015, the last full scale review of marches and parades had been carried out by Sir John Orr, and was published by the Scottish Government in 2005. Dr Rosie's work directly built on this.

2. In October 2016, Dr Rosie's report on marches, parades and static demonstrations was published. The conclusions were generally positive and the report highlighted areas where increased clarity, consistency, transparency and engagement could be beneficial to the smooth-running of these events. Dr Rosie viewed these as 'tweaks' rather than fundamental changes to the existing system. Recommendations were mainly for local authorities to take forward (some in partnership with Police Scotland and march and parade organisers). There were two issues which required further consideration by the Scottish Government – recommendations on static demonstrations and on the circumstances in which Temporary Traffic Regulation Orders (TTROs) might be required to regulate traffic for marches and parades.

3. In July 2019, the Scottish Government asked Dr Rosie to carry out a further review into progress made against his 2016 recommendations and identify any emerging issues. The report of this second review is being published together with this Scottish Government response.

## **Remit and Overarching Principles**

4. The following remit and overarching principles applied to Dr Rosie's 2019 review:

5. Dr Rosie's remit was to:

- Review progress made against each of the 21 recommendations contained in the 2016 Report, identifying possible barriers to progress and highlighting best practice;
- Engage with key stakeholder and interest groups including, but not limited to, local authorities, march/parade/demonstration organisers, Police Scotland and community representatives, to gather evidence on the progress, or otherwise, made since the publication of the Report;
- Identify any issues emerging since 2016, both positive and negative, that have impacted on the processes relating to marches, parades and static demonstrations. This can include identifying best practice and areas where improvements can be made;
- Assess the existing legislation, guidance and processes relating to marches, parades and static demonstrations, specifically considering whether the legislation, guidance and processes are fit for purpose and, if not, how these can

be improved, taking particular account of community impacts. Specific consideration should be given to whether the evidence-gathering and decision-making processes can be improved while being mindful of existing statutory responsibilities and human rights frameworks; and

- Report the findings of the review to Scottish Ministers by the end of 2019, setting out progress made and any additional recommendations that could further benefit the facilitation of marches, parades and static demonstrations.

6. Overarching principles governing the review:

- The rights to march, parade and demonstrate, and to public assembly, are enshrined in human rights legislation.
- These rights must be balanced with the rights of communities affected by such events to go about their business as undisturbed as possible and without fear for their safety.
- Responsibility for the regulation of marches and parades rests with local authorities – each local authority, in consultation with Police Scotland, is in the best position to decide whether a particular event should go ahead and whether any restrictions should be placed on it.

## **Conclusion**

7. The Scottish Government notes the progress made in relation to the recommendations in the 2016 report; acknowledges the 7 recommendations made in the report; and agrees with Dr Rosie that more work is required by all parties.

8. The 7 recommendations made in the 2020 Report are for the Scottish Government, local authorities and Police Scotland to take forward. These 7 recommendations are marked (a) to (g) on the table which follows. We will encourage all parties to work together to achieve a well-balanced outcome which will allow Scotland's rich marching tradition to continue with minimal disruption to our communities. Further details of the Scottish Government's response to the specific recommendations are given in the following table.

**MARCHES, PARADES AND STATIC DEMONSTRATIONS:  
REPORT OF INDEPENDENT REVIEW: RECOMMENDATIONS AND SCOTTISH GOVERNMENT RESPONSE**

Ref:	Recommendation	Scottish Government Response
(a)	The Scottish Government should look to the previous recommendations on static demonstrations (3.6 in the 2016 report) and on the legal definition of public assembly (3.7 in the 2016 report) and consider whether any further discussion on these issues is necessary.	The Scottish Government welcomes any representations from those organising, facilitating and policing static demonstrations to ensure that legislation is effective and fit-for-purpose. We therefore agree with this recommendation and will keep this under review, have further discussions and consider if there is sufficient evidence available to justify changes in relation to either static demonstrations or the definition of public assembly.
The recommendation above – (a) – refers to recommendations 3.6 and 3.7 that were in the 2016 report. These were:		
<b>2016 recommendation:</b>		<b>2016 SG response:</b>
3.6 The Scottish Government should continue in dialogue with those who may have concerns over static demonstrations, such as local authorities and Police Scotland, to explore what support and advice can be given.		3.6 The Scottish Government recognises that there have been increasing concerns relating to the static demonstrations that have taken place in some areas. We are therefore happy to welcome this recommendation and will liaise with local authorities, Police Scotland and any other interested parties to consider how best this dialogue can take place. We will continue to monitor the issue to ensure appropriate support and advice is available where needed.
3.7 Some consideration should be given by the Scottish Government as to whether a change in the legal definition of a 'public assembly' (reducing it from 'twenty persons or more', perhaps in line with the previous change in England & Wales) would have a positive impact on Police Scotland's powers to deal with static demonstrations where public order is threatened. This consideration should take into account the effectiveness of such a change in light of any issues around proportionality and on the human rights of those demonstrating.		3.7 The Scottish Government will consult with key organisations and stakeholders to consider the merits and implications of a change to legislation. This will include looking at the effectiveness of the change to legislation in England and Wales.

<b>(b)</b>	Local authorities should ensure that their websites are fit for purpose – and for statutory obligations – in terms of recommendations made in the 2016 Report (namely 3.58 and 3.62). Most local authorities have made good progress on this, whilst others have made little or none. The Scottish Government should further review progress on this in 2021.	In welcoming this recommendation the Scottish Government acknowledge the progress that many local authorities have made to ensure that their on-line information is up-to-date and fit for purpose. We encourage all local authorities to keep their online information up-to-date and under review.
The recommendation above – (b) – refers to recommendations 3.58 and 3.62 that were in the 2016 report. These were:		
<b>2016 recommendation:</b>		<b>2016 SG response:</b>
3.58 Local authorities should review the information on future marches and parades they currently provide. Where a clear and comprehensive list of marches and parades, with full information on matters such as the process for comment and/or objection, is not already provided online, local authorities should give consideration to how this can be provided.	The Scottish Government welcomes <i>[these]</i> recommendation[s] and would strongly encourage local authorities to ensure that information made available is regularly updated so that it is clear and comprehensive. It is vital that this information is shared to enable communities to fully engage in the march and parade process and to have clarity on the process involved with raising any comments or concerns.	
3.62 Those local authorities with an existing information opt-in list or key interest groups list should make this fact clear on their websites to ensure those interested in being included on such lists have the opportunity to do so. Where a local authority does not have such lists, they should be introduced.		

<b>(c)</b>	<p>The Scottish Government should refresh its guidance to local authorities (and a wider public) in light of the agreement reached between COSLA and Police Scotland on TTROs. That guidance might also, usefully, provide advice on the types of objections local authorities could take into account when making decisions about marches and parades. The guidance should be framed in light of human rights and of statutory Public Sector Equality Duty.</p>	<p>The Scottish Government recognises that accurate, up-to-date guidance is needed on the circumstances in which Temporary Traffic Regulation Orders (TTROs) might be required to regulate traffic in connection with marches and parades.</p> <p>Work is currently ongoing to reach an agreed, multiagency position on the process by which decisions about traffic regulation for marches and parades are taken and implemented. Further discussions between Scottish Government, Transport Scotland, COSLA and Police Scotland, as well as other interested parties such as march organisers and human rights advocates, have been taking place with a view to developing appropriate guidance on this issue.</p> <p>In light of the current report, the Scottish Government will also consider whether updated guidance is required in connection with other issues arising in connection with marches and parades, including the type of objections local authorities can take into account when making decisions about these events.</p>
<b>(d)</b>	<p>Local authorities should give some thought on how to encourage organisers to voluntarily notify their intention to hold a static demonstration or assembly and ensure that a clear route for contact is in place.</p>	<p>The Scottish Government accepts this recommendation and recognises the benefits it could bring to organisers as they develop their plans for their demonstration or assembly, and to local authorities and Police Scotland as facilitators. We therefore encourage local authorities to look at ways in which they can build relationships with those seeking to hold static demonstrations to enable such voluntary engagement to take place.</p>
<b>(e)</b>	<p>Local authorities should consider whether a concise summary of decisions made between organisers, Police Scotland, and local authorities in the process of dealing with the notification can routinely be made public. This would give transparency and legitimacy to the</p>	<p>The Scottish Government welcomes this recommendation. This could encourage open and transparent dialogue and decision-making and allow organisers to better understand the reasons why events are, on occasion, subject to conditions and restrictions such as re-routing and changes to timings. This may help organisers to proactively address similar issues with their marches and parades in future applications. It may also enable local communities and the general public to better understand the decision-making</p>

	<p>processes in facilitating marches and parades that are often unseen. The refreshed Scottish Government guidance (see (c) above) should highlight this as best practice.</p>	<p>involved in the notification process. The Scottish Government agrees to highlight this as best practice in any future guidance it issues.</p>
<p><b>(f)</b></p>	<p>It is necessary to recognise the considerable costs that public bodies, not least Police Scotland, can occasionally face in facilitating marches and parades. This report heard, in particular, of the impact on staffing resilience and morale for Police Scotland over events in Glasgow and it is important to note these. It may be useful to consider whether other agencies – such as traffic/parking wardens or community enforcement officers – could be co-opted into the more routine aspects of policing parades (e.g. managing traffic). This may not reduce the financial cost of facilitating a march or parade but it might help to ensure that conventional and tactical officers are freed up for other policing duties. Police Scotland could initiate a discussion on this, liaising with local authorities/COSLA and other agencies in the first instance, on what powers might be delegated, for what purpose, and how this might be achieved.</p>	<p>The Scottish Government welcomes the recommendation of further dialogue on these issues, while recognising the complexities involved in any consideration of potential legislative change. We therefore invite Police Scotland to hold further discussions on this with all interested parties to consider the merits, implications and practicalities of any potential change.</p>

<p><b>(g)</b></p>	<p>It seems clear that there is a particular burden on public resources when relationships between the key parties to marches and parades are under strain. Investment in ‘fostering good relations’ at local levels will do much, in the medium to long term, to improve the resilience of these relationships, and to build (in particular with parade organisers) trusted channels of discussion and negotiation. Building such relationships should be seen as the responsibility of all parties to a march or parade, organisers, police, and local authorities. Whilst fostering good relations between individuals and groups across protected characteristics is a statutory requirement under the Public Sector Equality Duty, it should also be seen as best practice in all situations. Where relationships around marches and parades have been damaged or eroded, the local authority should strive, in the first instance, to repair them.</p>	<p>The Scottish Government accepts this recommendation and welcomes the benefits that open, honest and constructive dialogue can bring. We will consider how this could be taken forward, working with partners including police, local authorities, march organisers and other stakeholders.</p>
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The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83960-616-8 (web only)

Published by The Scottish Government, June 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS708486 (06/20)

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