

Scottish Government Response to the Independent Report on Marches, Parades and Static Demonstrations in Scotland, October 2016



Ministerial Foreword

The rights to march, to demonstrate and to celebrate traditions and beliefs are integral to democracy in all diverse multi-faith and multi-cultural countries. In Scotland we have a rich history of such cultural and political events and we are committed to protecting this right. Such rights are enshrined in legislation, ensuring that we can embrace our own unique and varied identities, while



collectively celebrating our commonality and community as modern Scots. However, these rights do not exist in a vacuum and need to be balanced with responsibilities and the rights of others to go about their business unfettered.

When Sir John Orr carried out his extensive review into marches and parades in 2005, he expressed the hope that his package of recommendations would lead to an improved experience for those involved with marches and parades, including organisers, facilitators and communities. Sir John's aim was to ensure people were better informed, that disruption was minimised and that conduct was improved, helping to professionalise and modernise the decision-making process.

10 years on from the Orr Review is the right time to consider whether these hopes are being realised and whether the laws and procedures are still relevant to the current landscape. Much has changed since 2006, when legislative and non-legislative changes were made to improve the experience of those wishing to march, those facilitating that right, and those impacted more widely in communities.

I was therefore delighted that Dr Michael Rosie agreed to carry out a scoping exercise on Marches, Parades and Static Demonstrations in Scotland, following on from his membership of the independent Advisory Group on Tackling Sectarianism in Scotland. And I am now pleased to welcome the publication of Dr Rosie's report, alongside the Scottish Government response, which addresses each of his recommendations in turn.

The thoughtful and constructive conclusions and recommendations contained within Dr Rosie's report are all aimed at ensuring we continue to have processes that are fit-for-purpose and which work towards maintaining the correct balance of rights between those marching and those communities which are directly affected by such events. I was heartened by Dr Rosie's conclusion that his recommendations 'have the ambition to fine tune a system that, by and large, works very well indeed' and to hear of the professional approach taken by the three key parties involved (the parading organisations, local authorities and Police Scotland).

This is a strong basis on which to make the improvements recommended in the report and I am confident that where further clarity is needed, and where engagement can be improved, those with responsibility for taking action – local authorities, Police Scotland and march, parade and static demonstration organisers themselves – will be able to work together to achieve this.

This Government will give full consideration to all the recommendations and, where responsibility for action lies with other organisations, will encourage those organisations to consider the recommendations and deliver improvements by building on existing positive relationships and working in partnership to achieve the best and most balanced outcomes for those wishing to march and parade and for communities themselves.

I am grateful to Dr Rosie for all of his hard work in delivering this report. But even more importantly, I would like to thank all those who met with Dr Rosie, or otherwise contributed to his report, for taking the time out of their busy schedules to participate in this work – march and parade organisers, local authorities and Police Scotland have all provided valuable insight. Positive and constructive engagement makes all the difference and will take us forward to ensure the balance of rights is achieved, keeping marches and parades in Scotland fit for the 21st century.

Annabelle Ewing

Minister for Community Safety and Legal Affairs

Background

1. In July 2015, the then Minister for Community Safety and Legal Affairs, Paul Wheelhouse MSP, agreed that Dr Michael Rosie, Senior Lecturer in Sociology at the University of Edinburgh and former member of the independent Advisory Group on Tackling Sectarianism in Scotland (the Advisory Group), should provide independent advice to Ministers on marches, parades and static demonstrations in Scotland. Dr Rosie has a specific interest and expertise in marches and parades through his academic work.

2. The last full scale review of marches and parades had been carried out by Sir John Orr, and, in 2005, the Scottish Government published his *Review of Marches and Parades in Scotland*.

3. The legislative and non-legislative changes made as the result of this review have now had considerable time to bed in and so, 10 years on from Orr, it was felt right to consider whether the laws and procedures were still relevant to the current landscape and to consider the current arrangements in light of the recommendations relating to marches and parades made by both the Advisory Group (their interim and final reports being published in December 2013 and May 2015 respectively) and by the University of Stirling (in their independent research report on the Community Impact of Public Processions published in February 2015).

Remit of Scoping Exercise

4. Dr Rosie's remit was:

- To assess the current processes and procedures for arranging and running marches, parades and static demonstrations in Scotland from the perspectives of those seeking to march, parade or demonstrate and those who need to facilitate and police such events.
- To identify the issues arising from these, both positive and negative, and to do so in light of the changes since the *Review of Marches and Parades in Scotland* in 2005; the report on the *Community Impact of Marches and Parades* in 2015; and the report on *Sectarianism and its Consequences* by the Advisory Group on Tackling Sectarianism in Scotland in 2015.
- To report to Scottish Ministers in early 2016 setting out recommendations for any actions identified to achieve the correct balance of rights between those who wish to march, parade and demonstrate and the communities that these events impact upon. This can include the sharing of best practice from events such as those recognised as having a positive community impact.

Key considerations

5. The rights to march, parade and demonstrate and the right to public assembly are enshrined in human rights legislation and the Scottish Government is firmly committed to upholding these rights.

6. However, 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.

7. Responsibility for the regulation of marches and parades rests with local authorities. The Scottish Government believes that 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

8. The Scottish Government agrees with Dr Rosie's conclusion that many of the recommendations are simply about tweaking a system which already works well and is suitable for Scotland.

9. The vast majority of the 21 recommendations made in the report are for local authorities, Police Scotland and march and parade organisers to take forward and we will encourage them to do this. Additionally, we will directly take forward the actions that have been identified for the Scottish Government and 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.

This table highlights the Scottish Government responses to all of the recommendations made by Dr Rosie in his report on Marches, Parades and Static Demonstrations in Scotland. It should be noted that the recommendations are addressed to the specific organisations that are best placed to deliver the actions required to take them forward. Many of these recommendations relate to tweaking and fine tuning a system that already works effectively and we believe most are achievable within the current structures that are in place for the management of these events.

Recommendation		Lead organisations	Scottish Government comment
2.11	While recognising that final discussions and decision-making has to take place with the most up-to-date information available, in keeping with the spirit and recommendations of the Orr Review, at a minimum, both the local authority and police should issue acknowledgement of a notification and raise any issues that are clear from the outset at an early opportunity. This will ensure that organisers are apprised of any likely issues or problems and are given a reasonable time to prepare and, if necessary, make any appeals.	Local authorities and Police Scotland	The Scottish Government recognises the importance of effective and constructive dialogue between march and parade organisers, local authorities and Police Scotland. Early engagement, whenever possible, can help to ensure early discussion, which in turn can allow issues to be resolved at an early stage provided all parties are willing to cooperate. Enacting this recommendation will be beneficial to all parties involved.
2.21	Local authorities and police should give further thought as to how meaningful and proactive engagement involving the community, and as set out in the Orr Review, can take place.	Local authorities and Police Scotland	Achieving the correct balance between the rights of marchers and the rights of communities to go about their business as undisturbed as possible by such events is the principle that needs to be central when considering marches and parades. Dialogue with communities is essential and a vital component of the notification process if communities are to feel involved and informed on marches and parades taking place in their area. The Scottish Government will liaise with others to highlight examples of good practice where such dialogue has taken place and been effective.

2.49	Police Scotland and march and parade organisers should prioritise dialogue with a view to establishing/re-establishing fuller police engagement with steward training and deployment.	Police Scotland and march and parade organisers.	The Scottish Government strongly supports efforts to establish/re-establish dialogue and engagement on steward training and deployment. This is vital to ensuring the smooth running of marches and parades and avoiding the tensions that can flare up on a march day. We note and welcome the positive steps made by some march organisers in taking more responsibility for the effective training and deployment of stewards, which has led to an increase in professionalism amongst stewards. We therefore welcome this recommendation and encourage Police Scotland and march and parade organisers to ensure such training takes place.
2.54	Police, local authorities and march and parade organisers should work together to ensure clear procedures are in place for all marches and parades, with clear and consistent briefing, including agreed written action plans. Where appropriate - e.g. where additional conditions were attached to a march or parade, or where issues of concern are raised by any of the key parties - Police Scotland, local authorities, march and parade organisers and local communities - debriefing should take place.	Police Scotland, local authorities and march and parade organisers	The Scottish Government welcomes this recommendation and is supportive of cooperative work between all partners to achieve a clear understanding of the procedures that will be in place on the day of a march or parade.
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	The Scottish Government	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

	be given.		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.	The Scottish Government	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.
3.13	Local authorities should give consideration to how they present information and procedures on marches and parades, ensuring that clear and consistent information is readily accessible online. If information is not given online, clear guidance about where it can be accessed is essential.	Local authorities	The Scottish Government recognises the need for clarity in all communications relating to marches and parades and is therefore supportive of the aim of local authorities providing clear, consistent and readily accessible information. Specifically, we are supportive of organisations using plain English to make information as widely accessible to as many people as possible.
3.19	Local authorities should give some thought to the way in which their notification process is presented and explained, such that adequate recognition is given to the rights and responsibilities of march and parade	Local authorities	The Scottish Government recognises that it is good practice to refresh information that is available to the public on a regular basis. We encourage the involvement of local communities, as well as marching and parading organisations, in any refresh to ensure it meets the needs of both march organisers and communities.

	organisers. Good practice examples to facilitate any general 'refresh' of materials are readily available.		
3.30	Local authorities and Police should give further serious consideration to using Event Planning and Operations Group (EPOG)/Safety Advisory Group (SAG) process as used by The City of Edinburgh Council and Scottish Borders Council respectively, as a model that could be adapted to local circumstance.	Local authorities and Police Scotland	The Scottish Government notes the good practice examples highlighted by Dr Rosie's report and would encourage all local authorities to consider adopting and adapting such planning models. Police Scotland is well placed to help roll this model out nationwide.
3.31	Those few local authorities who still require organisers to separately notify Police Scotland should consider adopting the single notification model used by the majority of local authorities.	Local authorities and Police Scotland	The Scottish Government recognises the advantages of adapting the most efficient and straightforward systems for those wishing to give notification of marches and parades and encourages every local authority area to consider adopting the single notification model. Such an adaptation would also help to move towards a consistency of approach across Scotland.
3.33	Those local authorities who do not have clear codes of conduct and guidance on standard conditions should adopt a policy of providing these as per the recommendations made following the Orr Review circulated in 2005 and 2006. Those who do have such policies should ensure that they can be readily accessed, that they are written in plain English and that they are easily understandable.	Local authorities	The Scottish Government encourages local authorities to consider this recommendation with a view to adopting or refreshing codes of conduct and guidance on standard conditions, in line with best practice, where necessary.
3.36	Where guidance is not already provided on what (minimum) level of	Local authorities	The Scottish Government recognises that there is a lot of existing accumulated knowledge and expertise relating to how best to

	stewarding might be expected, local authorities should consider providing this. This need not be formalised as a 'standard condition' but could be in the form of indicative guidance.		ensure the safety of both participants and the wider public on marches and parades. Indicative guidance, which can be adapted in response to particular circumstances, could help with the planning of events and ensure that there is a clear expectation of what will be required from march and parade organisers.
3.39	It would be good practice for those local authorities who currently make no general comment on the hours of the day when music will be normally acceptable to consider doing so. This can be worded in a flexible way that allows for local contexts and considerations to play a full part in the notification process.	Local authorities	The Scottish Government welcomes this recommendation and recognises the serious nature of noise nuisance within particular communities, especially when this occurs at antisocial hours. We therefore agree that direction from local authorities would be helpful in ensuring local communities are not needlessly disturbed.
3.46	Local authorities should consider whether standard conditions relating only to 'places of worship' are fit for their intended purpose. If the intent is to protect 'solemn occasions' from unreasonable noise, then they should be broadened to encompass a wider range of places (The City of Edinburgh's formulation offers a good example of how to do so). This, however, places a clear onus on local authorities to give clear and carefully explained guidance to both organisers and police.	Local authorities	The Scottish Government welcomes this recommendation and encourages every local authority to consider their own Standard Conditions around 'places of worship' in light of the best practice example of City of Edinburgh Council cited by Dr Rosie. We encourage local authorities to review their guidance to ensure that clear, consistent and understandable guidance on this issue is readily available to march and parade organisers and Police Scotland.
3.47	Local authorities should consider whether a 'blanket ban' on music around places of worship or places where religious, cultural or legal	Local authorities	The Scottish Government welcomes this recommendation and recognises the serious nature of noise nuisance within particular communities. We therefore agree that clear direction from local authorities is needed in response to this recommendation.

	ceremonies take place regardless of whether a service or ceremony is taking place is disproportionate.		
3.50	Wherever possible, clear details of what can be allowed on the day, including on issues such as allowing spear-tops on banner poles, should be set-out and recorded in advance of the march or parade to avoid uncertainty on the day itself.	Local authorities, Police Scotland and march and parade organisers	The Scottish Government is fully supportive of engagement between march and parade organisers, local authorities and Police Scotland and also recognises the need to provide clear details of decisions being set out and recorded to ensure clarity and avoid uncertainty.
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 information can be provided.	Local authorities	The Scottish Government welcomes this recommendation 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 have the opportunity to do so. Where a local authority does not have such a list, one should be introduced.	Local authorities	The Scottish Government welcomes this recommendation and recognises the need for clear information to be available to those seeking to organise marches and parades and the general public.
3.68	Local authorities should provide clear and concise guidance on how to make comments or objections about marches and parades and on what	Local authorities	The Scottish Government welcomes this recommendation and fully recognises the need for those in communities to be able to make their voices heard in relation to any concerns and complaints they may have about events. In particular, if

	considerations can be taken into account.		communities do object to a march or parade taking place, then it is vital that those who are responsible for making decisions know about these views so that they can inform the process, when and where such objections are deemed to be legitimate.
3.90	Clarity is urgently required on a number of issues relating to Police Scotland's current position on their (lack of) emergency powers relating to pre-planned marches and parades. If Police Scotland have received legal advice on this position then they should be encouraged to publish it. They should also be encouraged to publish details of any consultations they have carried out with external bodies, not least local authorities, in relation to their position.	Police Scotland	The Scottish Government acknowledges the concerns around the use of TTROs raised in the report, and the need for greater clarity on this issue. We also recognise that the impact of changes in policy around TTROs is not confined to marches and parades. We are in dialogue with Police Scotland with the aim of gaining clarity on this issue and we will give further consideration in light of any information we receive.
3.91	It remains unclear (to a lay reader) whether marches and parades fall under the definition of events as described in the existing legislation, and the extent to which multiple TTROs can be issued for the same stretches of public roads without the express permission of Scottish ministers. If necessary, legal advice should be urgently secured and published. This could be jointly sought by Police Scotland, local authorities and the Scottish Government.	Police Scotland, Scottish Government, local authorities	As with recommendation 3.90, the Scottish Government acknowledges the concerns raised and the need for greater clarity on this issue. We will continue to liaise with Police Scotland and local authorities on this issue.



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Any enquiries regarding this publication should be sent to us at
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Edinburgh
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