

Independent Report on Marches, Parades and Static Demonstrations in Scotland

Dr Michael Rosie

FOREWORD

The year 2015 marked the tenth anniversary of the publication of Sir John Orr's *Review of Marches and Parades in Scotland*. The implications of the publication of this document in 2005 may now seem vague to many of us, but it is important that we remember the significance of this report. It was the first full scale review of marches and parades undertaken in Scotland and Orr's recommendations were important in helping to move towards standardisation of the arrangements for such events across Scotland.

Much can change in a decade and 2015 felt like the right time to revisit the review, take stock and consider how things may have moved on. In particular, it felt like the right time to examine how the current arrangements were working in light of both changing circumstance and recent research. It also felt like the right time to expand the scope of the original review to include static demonstrations, an issue that was not a feature of the Orr Review but has subsequently risen in significance.

I am therefore pleased to present this report on marches, parades and static demonstrations in Scotland. I was invited by the Scottish Government to carry out a scoping exercise and provide independent advice on these issues, and this report follows full and constructive conversations with those involved in the marches and parades process – those seeking to march, parade or demonstrate and those with statutory duties to facilitate and police such events – allowing me to gain insight from various perspectives.

I wholeheartedly thank everyone who took the time to meet with me and share their views and experiences. Without such generous input this report could not have been written.

The independent research report on the Community Impact of Public Processions (carried out by the University of Stirling and published in February 2015) had noted the continued contentious nature of some marches and had reiterated the need for the correct balance between rights and responsibilities to be achieved, as well as noting some concern around static demonstrations. In addition, the reports by the independent Advisory Group on Tackling Sectarianism in Scotland, which I was a member of, made a number of recommendations in relation to marches and parades.

I hope that this report and its recommendations add constructively to the discussions taking place, building on these existing pieces of work and helping to further increase our collective understanding of the issues involved. Good understanding on all sides can ensure that the process produces the best possible balance of rights between those marching and parading and the communities they pass through.

As I state in my conclusion to this report, it is my view that the process involved in the marches and parades system, by and large, works well the majority of the time. I

heard many positive examples of best practice, which I have highlighted. However, there is no room for complacency, and I have also highlighted areas where further attention is needed to ensure equity within the process and to encourage the good relations, constructive dialogue and trust built up between parading organisations, local authorities and the police to be built upon further and not lost.

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EXECUTIVE SUMMARY

1. The findings and recommendations contained in this report are the outcome of discussions that took place between Dr Michael Rosie and a range of interested parties, including march and parade organisers, those who have held static demonstrations, local authorities and Police Scotland. It reflects the views, opinions and experiences emerging from those discussions and from additional observation and research conducted by Dr Rosie.
2. The aims of this report, and the recommendations contained in it, are to add constructively to the discussions taking place on marches and parades, outline key areas where further work is needed and provide some direction as to where efforts would be best focused to ensure processes works effectively and fairly.
3. While this report makes clear that the processes involved in the marches and parades system, by and large, work well the majority of the time, a number of recommendations are made, calling for: greater clarity on a number of key issues, dialogue to strengthen good relations, and better engagement to ensure that where problems do occur, these can be dealt with constructively and in an environment of good faith.

Recommendations

Post-Notification Engagement

- 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. (2.11)

Community Engagement

- 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. (2.21)

Stewarding

- 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. (2.49)

March and Parade procedures

- 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 - de-briefing should take place. (2.54)

Static Demonstrations

- 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)
- 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)

Information and Guidance

- 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. (3.13)

Presentation of Notification Procedure

- 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 organisers. Good practice examples to facilitate any general 'refresh' of materials are readily available. (3.19)

Processing Notifications

- 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. (3.30)

- 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. (3.31)

Codes of Conduct and Standard Conditions

- 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. (3.33)

Stewards and Marshalls

- Where guidance is not already provided on what (minimum) level of 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. (3.36)

Music

- 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. (3.39)
- 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. (3.46)
- Local authorities should consider whether a 'blanket ban' on music around places of worship or places where religious, cultural or legal ceremonies take place regardless of whether a service or ceremony is taking place is disproportionate. (3.47)

Weapons and Halberds

- 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. (3.50)

Information for the Public

- 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. (3.58)
- 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. (3.62)
- Local authorities should provide clear and concise guidance on how to make comments or objections about marches and parades and on what considerations can be taken into account. (3.68)

Temporary Traffic Regulation Orders (TTROs)

- 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. (3.90)
- 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. (3.91)

Section 1: Background

1.1 In 2012, the (then) Minister for Community Safety and Legal Affairs, Roseanna Cunningham MSP, appointed an Advisory Group on Tackling Sectarianism in Scotland ('the Advisory Group') to provide independent, impartial advice on developing work to tackle sectarianism in Scotland. The Advisory Group published a [Report on Activity](#) in December 2013, followed by its [Final Report](#) in April 2015.

1.2 The Scottish Government also commissioned a number of independent research projects to inform the Advisory Group's work, which were published in February 2015. These comprised:

- A dedicated module in the Scottish Social Attitudes Survey 2014 on [Public Attitudes Towards Sectarianism in Scotland](#).
- A qualitative enquiry into [Communities' Experiences of Sectarianism in Scotland](#).
- A multi-method study of [The Community Impact of Public Processions](#).

1.3 The Scottish Government's Justice Analytical Services also published [An Examination of the Evidence on Sectarianism in Scotland](#) in June 2013, with an extensive [Update](#) published in May 2015.

1.4 Amongst the key conclusions of the Advisory Group were that:

A very substantial body of evidence consistently corroborates the evident perception in Scotland that 'sectarianism' (however defined) is widespread and worrisome. There is, though, rather less clear evidence about its actual form, character and extent. This 'gap' was amongst the key conclusions of Scottish Government reviews of evidence in 2005, 2013 and 2015 [and] we wish to emphasise the importance of this finding [...] There are consistent patterns to beliefs about the seriousness and extent of sectarianism, as well as to what contributes to its continued existence.

[AGoTS, 2015: p6]

1.5 Notably, the most striking supposed 'contributors' to sectarianism, and in particular to perceived sectarian violence, were very public events:

The perception that sectarianism is closely associated with violence remains very strong in many people's minds, particularly when it comes to the more visible areas where sectarianism is seen to be a problem – football and marches and parades.

[AGoTS, 2015: 1.9.3]

1.6 In its meetings, the Advisory Group heard “consistent and clear” perceptions about the key role in sectarianism of particular institutions and contexts. These were “neatly mirrored and encapsulated” in the findings of the *Public Attitudes Towards Sectarianism in Scotland* research project which found that “Very substantial proportions [of respondents] mentioned football (88%), Orange Order/Loyalist parades (79%), and Irish Republican marches (70%)” when considering the “aspects of Scottish life they felt ‘contributed’ to sectarianism”:

Very strikingly, when asked which aspect of Scottish life most contributed to sectarianism, 55% identified football, with much smaller proportions identifying Orange Order/Loyalist parades (13%) or Irish Republican marches (3%).

[AGoTS, 2015: 3.11.10]

1.7 Similar opinions were found in the *Community Impact of Public Processions* research, which highlighted “negative views” about Loyal Order and Irish Republican parades “in contrast to most other types of procession”. Loyal Order and Irish Republican parades were regarded as associated “with a range of social problems” such as community tensions and anti-social behaviour (pviii).

1.8 Further, the *Public Attitudes* research found that a majority of respondents (53%) *opposed* “the right of loyalist organisations, such as the Orange Order, to march along public streets in Scotland” with a similar majority (56%) opposing the rights of Irish Republican organisations.

1.9 Relatively few respondents (respectively 14% and 11%) *supported* the rights of such organisations to march (pp35-36). We can thus say, with some confidence, that Loyal Order and Irish Republican parades are *perceived* as amongst the important contributors to sectarianism in contemporary Scotland - though not necessarily the most important – and that many Scots are opposed to them.

1.10 Despite this clear evidence on the perception of such parades, the *Community Impact of Public Processions* research revealed that attitudes around, and experiences of, such parades were actually rather complex. There was little evidence of widespread public misbehaviour (let alone serious disorder and criminality) in and around the parades they observed.

1.11 Notably, the main parading organisations have made some efforts towards improving the organisation, planning and stewarding of their events. The Advisory Group met with two key parading organisations and saw considerable potential to assuage negative perceptions of parades whilst upholding freedoms of assembly and expression. The Advisory Group concluded:

Such progress would require fuller acknowledgement of the impact of events on others and a willingness to take responsibility for management of parades and their consequences.

[AGoTS 2015: 3.11.11].

1.12 It might be noted here that many within parading organisations claim to be very keen “to take responsibility for management of parades and their consequences”, not least in shifting towards a strong emphasis on self-stewarding rather than what they sometimes see as ‘over policing’.

1.13 There has been, as the *Community Impact of Public Processions* report noted, increasing professionalization of parade organisation, particularly with regard to the largest Loyal Order and Irish Republican parades. Key parading organisations have developed a wide pool of experienced and responsible stewards/marshals, and considerable expertise in developing event management plans.

1.14 Improvements in stewarding and the training of marshals has facilitated changes in the policing model for the largest Orange Order parades, with declining numbers of arrests and Fixed Penalty Notices.

1.15 For the Glasgow Boyne Celebration events, the largest and most complex of the annual parades, there has been a reported saving in police costs of approximately £250,000 over three years¹. For the Orange Order, this has reduced their own feeling that such events are ‘over-policed’ and has underlined the importance of their own initiatives in training and supporting marshals and stewards.

1.16 The Advisory Group:

[...] were struck by the planning that goes into parades, large and small, organised by [the main Orange/Loyalist and Irish Republican] groups, as well as the effort given over to stewarding. This impression was confirmed by the independent research into marches and parades, which noted that most events organised by these key organisations passed off peacefully.

[AGoTS 2015: 4.26]

1.17 The Final Report reiterated a point made in its interim Report on Activity, in that:

Marches and parades have been the subject of a number of reviews in recent years but continue to give rise to allegations of sectarianism and to complaints

¹ Cited in *Community Impact of Public Processions*, p9

that they are associated with an increase in unruly behaviour and street violence.

[AGoTS 2013: 6.58]

1.18 It concluded that:

More work needs to be done by march organisers to reassure the general public about the nature of these parades, and issues of public safety and public order associated with them

[AGoTS 2015: 4.28]

Remit and contributors

1.19 At the conclusion of the work of the Advisory Group, the then Minister for Community Safety and Legal Affairs, Mr Paul Wheelhouse, MSP, tasked Dr Michael Rosie, a member of the Advisory Group, with investigating further the issue of marches and parades. This arose from the seeming difference between the highly negative public perception of Loyal Order and Irish Republican parades, and the evidence heard by the Advisory Group – and underlined by the [Community Impact of Public Processions](#) report – that whatever issues and problems arose through such parades, they were, in general, well-managed and orderly.

1.20 The remit of this study was as follows:

- 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 authorise 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.

1.21 As well as this remit, the following broad questions were provided prior to meetings with police, local authority officials and parade organisers (see Appendix A for the full text of the letter sent to contributors):

- Has the organisation, administration and policing of marches and parades in Scotland improved since the publication of Sir John Orr's *Review of Marches and Parades in Scotland*, published in 2005?
- What are the current issues and/or problems that you currently experience and what action would you like to see taken in response to these?

1.22 Contributors to this study were drawn from three of the key parties to any march or parade: the police, the local authority, and the parading organisation itself. Those contributing included:

- Apprentice Boys of Derry (Scottish Amalgamated Committee)
- Cairde na hÉireann
- Convention of Scottish Local Authorities (COSLA)
- Glasgow City Council
- Grand Orange Lodge of Scotland
- Highland Council (via email)
- James Connolly Society
- North Ayrshire Council (via email)
- North Lanarkshire Council
- Orkney Council (via email)
- Police Scotland
- Provincial Grand Black Chapter of Scotland
- Scottish Borders Council (via email)

1.23 This study consisted of lengthy face to face discussions with the bodies noted above and/or email contributions. As background to previous work with the Advisory Group, and continued as part of this study, Dr Rosie observed a number of marches and parades, attended (as a member of the public) several relevant local authority licencing committee meetings, and researched the documentation and guidance available online.

The Orr Review, 2005

1.24 Sir John Orr was commissioned in 2004 by the, then, Scottish Executive to undertake a review of marches and parades in Scotland. His remit covered five specific areas: the period of notice required from organisers; community involvement in decision making; determining when and why parades should be restricted or prohibited; the volume of parades and their community impact; and the policing of marches and parades.

1.25 Orr published his *Review of Marches and Parades in Scotland* in 2005. The key legislative changes which came into effect from April 2007 were 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.

(*Consultation into Marches and Parades in Scotland*, 2008, p4)

1.26 Following consideration of the review and the publication of the *Report of the Working Group on Marches and Parades* in December 2006, the then Scottish Executive issued *Guidance for Scottish local authorities* in December 2006 to assist local authorities in addressing the changes to march and parade legislation put in place by the *Police, Public Order and Criminal Justice (Scotland) Act, 2006*.

1.27 The Scottish Government undertook a *Consultation into Marches and Parades in Scotland*, reviewing how the procedural and legislative changes were working, in 2008. This asked the general public (and particularly march organisers and community organisations), local authorities, and the (then) eight Scottish police forces, to reflect upon the key legislative changes introduced in 2007. The Scottish Government subsequently published their *Analysis of Consultation Responses* in 2009.

Section 2: Stakeholder Views 2015-16

2.1 Despite widespread public perceptions about the particular impacts of Loyal Order and Irish Republican marches, few issues of major concern were raised in this recent scoping exercise.

2.2 By and large most, if not all, respondents had a positive view of the Orr Review and its recommendations. Where there was dissent from this view, it was generally felt that this sprung from occasions and contexts where Orr's recommendations had been 'cherry-picked' rather than fully followed through.

2.3 Broadly speaking, arrangements around parades worked well, and almost all the main issues raised in our discussions could be ameliorated through better communication and dialogue.

2.4 The United Nations' Rapporteur on the rights to freedom of peaceful assembly and of association made a short visit to Scotland in 2013 and consulted key stakeholders with regards to marches and parades. Overall, he found that freedom of assembly was, in practice, very secure in Scotland:

Parades are generally largely peaceful and well facilitated by the police. The increasing use of dialogue and negotiation between local authorities and police on the one hand, and organizers of parades and protests on the other, in order to ensure that these events take place with minimal difficulty, is commendable.²

2.5 Little was heard in this consultative exercise that was in any significant way contrary to the Rapporteur's overall view. In particular, no legislative change is recommended in this report, although close examination of some aspects of legislation by those responsible for facilitating and policing marches and parades may be useful, not least to urgently clarify areas of current uncertainty.

2.6 It might be noted, however, that the Rapporteur made three specific recommendations for change in practices in Scotland, and these are examined in the following discussion:

Amend the Police, Public Order and Criminal Justice (Scotland) Act 2006 with a view to reducing the notification period to a few days;

Ensure that the exercise of the right to freedom of peaceful assembly is not subject to cost recovery measures;

Adopt a harmonized approach across local authorities to facilitating parades.

² [*Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, on his mission to the United Kingdom \(14-23 January 2013\)*](#)

The Statutory Notification period

2.7 Local authorities and police very much welcomed Orr's introduction of a statutory 28 day minimum notification period. For police commanders, the longer period allowed for greater flexibility in forward planning, not least a reduction in last minute cancellation of police leave, with the financial implications that had on police budgets. Both Police and local authority officers felt the 28 day period had encouraged organisers to engage more closely with the notification process and, as a result, organisers have taken on more responsibility for pre-planning their events. This, in turn, has helped to build stronger and more positive relations between the key parties in a march or parade. Parade organisers were relaxed about the change from seven to 28 days, although in most cases reported that their parade had over a number of years been notified well in excess of 28 days.

2.8 We heard no support for the UN Rapporteur's view that the notification period should be reduced down to 'a few days'. This was seen as practically unworkable by police and local authorities, and unnecessary by march and parade organisers. All felt that the four week minimum period afforded sufficient time for negotiation and dialogue where required.

2.9 Organisers noted that although they had a statutory duty to give at least 28 days' notice, there was no statutory duty on the part of local authorities (or police) to respond within a particular time frame. We heard of marches and parades notified many months ahead of time which, nevertheless, saw planning meetings with local authority officials take place a matter of days before the event itself. Such tight timescales do not allow for forward planning and make it difficult for organisations to lodge appeals should they feel the local authority have acted unreasonably. Where additional conditions are made (i.e. beyond those clearly communicated as 'standard' at the point of notification) then it is essential that organisers are given reasonable time to prepare and make an appeal.

2.10 Local authority officials agreed that it was in all parties' interests to speed up responses to early notifications, but noted several difficulties in doing so. For example, if Police Scotland do not provide observations until late in the process, local authorities can feel hamstrung. Should such late observations suggest *additional* conditions, then there are acute time pressures in ensuring, for example, that the Notification is scrutinised by the relevant local authority committee. This leaves the impression that conditions are being imposed at the last minute, which can cause difficulties between parade organisers and the local authority. Some local authority officers suggested that police be required to make their feelings known, even if necessarily provisionally, within a set period after receipt of the Notification. There is an inbuilt tension here since Police Scotland will always wish to base their views on the most up to date available information – but it is clear the balance

between reasonable delay and workable timescales is not always met. At minimum, both the local authority and police should issue acknowledgement of the notification, and raise any 'inevitable' issues i.e. those that are clear from the outset, at their earliest convenience.

Recommendation:

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.

Police Scotland views

2.12 Police respondents described current legislation relating to marches and parades as 'adequate' but would welcome a convergence of 'standard conditions' (as laid down by local authorities) across Scotland – a view that accords to some extent with the UN Rapporteur's recommendation of a "harmonized approach across local authorities". We examine local differences in such conditions below.

2.13 Likewise, police respondents were keen to see increased use of Temporary Traffic Regulation Orders (TTROs) as part of the management of marches and parades, in part to reduce the resource burden on Police Scotland.

2.14 Concern over resources continued to be key to the police view and had contributed to a change in policing strategies for larger parades, not least the Orange Order's annual Boyne celebration parades. We were told that improved engagement with organisers, allied to intelligence-led, targeted and zonal policing styles had reduced police resources required for the Glasgow Boyne parade by 55 per cent.

2.15 Criminality at Loyal Order and Irish Republican parades was "at a fairly low level", but the scope and complexities of the Glasgow Boyne events, and their city centre location, mean that at times the police feel that their focus is often directed at "keeping a lid" on events, sometimes requiring higher tolerance of behaviours that would not be tolerated on another occasion. Notably, however, this reflected a context in which arrests might exacerbate rather than help, and is not dissimilar to other crowd event contexts unrelated to marches and parades. However, senior police officers felt that Loyal Order and Irish Republic parades offered specific issues around the behaviour of spectators and around broader public perceptions of such parades as "threatening" and "exclusionary".

2.16 Police praised the great improvements made by the major organisations by way of taking some responsibility in engaging with spectators and in improving the number and quality of stewards/marshals. Public perception has not caught up with

these marked improvements and organisations should think further about how to reassure the public.

2.17 Police commanders also felt that more consideration should be given to the community impact of marches and parades – in particular, the cumulative impact in areas where there are multiple parades – and to community engagement.

2.18 Stirling University's *Community Impact of Public Processions* had raised the issue of cumulative impacts and senior officers felt that insufficient attention was paid to such impacts and to 'proportionality' in the consideration of notifications. The number of processions burdens some communities and provides a huge challenge to police resources. Senior officers felt that cost recovery mechanisms were required to ameliorate both costs to police and costs (e.g. for rubbish disposal after large events) to local authorities.

2.19 Senior police officers believed that there is no meaningful or proactive community engagement at local authority level and, indeed, that inconsistency around how march and parade information is made available online (see below) does not support public information provision, let alone engagement. In their view, therefore, 'community engagement' tends to consist of local authorities asking police to comment upon community views, which the police can, and do, provide through intelligence units.

2.20 As we note below, "informing and involving the community" was a key element within the Orr Review (see Recommendations 9 through 14). The Scottish Government's *Analysis of Consultation Responses* (2009) found that their public respondents were "in the main, unaware of when marches take place in their communities" and that "there was little evidence of increased involvement by individuals or community organisations in the decision making process". This is clearly an area where relatively limited progress has been made in meeting the spirit and the letter of the Orr Review, and some further thought would be useful in how to progress this aspect of march and parade management.

Recommendation:

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 authority views

2.22 Local authority officials raised queries and problematic issues over marches and parades-related policy and legislation and expressed considerable concerns over increased police requirements to have Temporary Traffic Regulation Orders (TTROs) in place for marches and parades.

2.23 Most local authorities were keen to reduce the administrative burdens around marches and parades. For example, in terms of the implementation of the Orr Review's recommendations, one local authority noted that the *Guidance for Scottish local authorities* issued in 2006 allowed "Scottish Ministers [to] make an order at the Scottish Parliament to give details of types of processions which are excluded from the requirements to give 28 days' notice". This power had never been exercised and the local authority wondered if it ever would be.

2.24 Some local authority officials also noted the very limited circumstances whereby Notified marches and parades could be prohibited or subjected to conditions beyond those which applied to all parades. It was felt that there was limited understanding of this amongst the public at large, leading to misunderstandings over why local authorities 'allowed' marches and parades which some members of the public opposed in general. Such opposition could never be satisfied so long as the parade occurred since it is the specific organisation/event being opposed rather than any issue of law or process. There was a sense that some local authorities did not wish to be embroiled in 'political' disputes over marches and parades which they could not effectively address given their restricted powers.

2.25 The issue of cumulative impact, as raised in the *Community Impact of Public Processions* report, was seen as an important issue, but one that was difficult to consistently address – one view is that, in general, the public do not like the inevitable disruption caused by marches and parades but accept them as an inherent part of democratic life.

2.26 Conversely, some officials noted a strong 'licensing' culture in some local authorities, and committees which did not fully appreciate that Notifications were to be facilitated rather than 'approved' (this is further explored below).

2.27 As with the police view, local authority officials reported that most parade organisers were well-informed about processes and liaised positively with local authorities. Several local authority officials reported that the key 'qualitative' difference, from their perspective, between Loyal Order/Irish Republican parades and those of other bodies, was a positive one – marches and parades organised by these groups tended to be more professional and better organised. Since these organisations march regularly they have a substantial reservoir of experience and knowledge about the Notification process. In sum, they are good at organising marches and parades; they increasingly use event management plans, meaning notifications are standardised and easily processed; and they are used to sticking to a tight timetable on the day. Other organisations are not always so capable or so strict on protocol with those marching. This competency was particularly the case with the Orange Order who, reflecting their size and long parading tradition, were described as knowledgeable and confident with a tendency to provide local authority officials with clear, professional plans and a vision for their parades.

2.28 The Orr Review had benefitted local authorities, not least through encouraging march and parade organisers to engage with the process and, as a result, get better at it. The larger parades increasingly feature sophisticated Event Management Plans, often at the organiser’s instigation. Such plans are very helpful to local authorities in discharging their duties around Notifications and are to be encouraged since they are also beneficial to the notifying organisations. Considerable improvements around stewarding had also positively impacted the behaviour of ‘followers’. The professional levels of stewarding at Orange Order, Apprentice Boys, Black Chapter and Cairde na hÉireann parades was highlighted, although it was felt that there is a need to encourage smaller organisations and Band Associations to continue to improve in terms of stewarding

2.29 As with the police, concerns were raised at the relative lack of progress with regards to community consultation and engagement. Local authority officials noted that while information about notified marches and parades is provided to communities online and via newspaper notification, reach and accessibility is patchy and often very basic – this is not seen as approaching how the Orr Review envisioned engagement. Some officials noted that a practical lack of real consultation can be a way for local authorities to insulate themselves from objections but it was recognised that communities must be provided with appropriate and accessible tools to engage with notified marches and parades (and to object) if the principle of consultation is to be taken seriously.

2.30 We heard interesting discussion around whether more information on the objection process, and on the appropriate grounds upon which a local authority could act on objections, could be provided to the public. For example, local authorities might provide structured and detailed FAQs to guide people through the process of objecting to marches and parades – and on what form of objections can be acted upon. We explore below the extent to which such information is available on local authority websites and highlight good practice.

2.31 There was, however, some uncertainty over what legislation referred specifically to, marches and parades: here it is useful simply to note that such terms are far from transparent, nor used precisely. For example, the 2006 [Guidance for Scottish local authorities](#) contains a short section on Managing Traffic (#29) which advises local authorities to “examine the effect on public roads if a procession is allowed [...], and whether traffic can be controlled well enough by police”. Readers are then directed to another document, [Galas and Events Affecting Public Roads: Guidance To Organisers](#), issued by the (then) Scottish Executive in 2005. Yet that document is largely concerned with “traditional events such as common ridings, riding of the marches, town galas, festive celebrations, military processions and the like” (Cover Note) rather than political or other marches/parades.

2.32 Further, the Galas and Events guidance distinguishes between “events such as a march, or a moving procession” and “any other event” (Section 2.0). These “other” events, the document continues, are covered by Section 16A of the *Road Traffic Regulation Act 1984* and Sections 16A-C of the *Road Traffic Regulation (Special Events) Act 1994*. These Acts specifically refer to “relevant events” defined as “any sporting event, social event or entertainment which is held on a road”. It is not at all clear to the lay reader, therefore, the extent to which any Loyal Order, Irish Republican or any other broadly ‘political’ or ‘protest’ march is actually covered by these Road Traffic Acts.

2.33 Strikingly, several issues raised during the consultation period for the *Galas and Events* guidance remained unanswered by the 2005 documents and appear to be of continuing relevance. For example, the 2005 consultation response from North Lanarkshire Council³ noted that the Scottish Executive guidance “fail[ed] to address the principal issues”. The Council raised several issues:

- The question of whether the words "sporting event, social event or entertainment" in Section 16A of the Road Traffic Regulation Act 1984 embrace, also, public processions.
- The circumstances in which a Temporary Traffic Regulation Order is required - particularly in connection with public processions - and the extent of or limitations on the powers of the police under the Road Traffic Act 1988.
- It is considered, also, that the consultation document should address the current provision of the sections of the Road Traffic Regulation Act 1984 as inserted by the Road Traffic Regulation (Special Events) Act 1994 which provide that only one Temporary Traffic Regulation Order is permitted within any calendar year affecting the same length of road without special permission from the Scottish Ministers.
- Finally it is considered that the document should address possible conflict between the timescales required for a Temporary Traffic Regulation Order and the period of notice required, under the Civic Government (Scotland) Act 1982, by a person proposing to hold a public procession.

2.34 Similarly, City of Edinburgh Council raised several relevant issues in response to the 2005 consultation: they noted of questions over “the police powers to hold traffic for short periods” that, in their view, such powers “can be adopted for short periods [of less than 15 minutes] and indeed using this means of dealing with marches etc. of short duration can avoid the costs of introducing a formal [roads] closure”. There were two concerns over the costs of a TTRO. Firstly that it would be “inevitable that the local authority will be required to allocate significant resources” to securing the Order and communicating it to businesses, residents and the general

³ North Lanarkshire Council, Planning and Environment Committee, *Report on Consultation: Galas and Events Affecting Public Roads*, May 2004 (available at <https://mars.northlanarkshire.gov.uk/egenda/images/att66089.pdf>)

public. There would be further costs around signage, barriers and traffic cones. Their second concern was that:

... although the[se] costs can be recovered where the event is for commercial purposes it is unlikely that organisers for marches aimed at a demonstration would make such a contribution. Furthermore it would appear that in such circumstances there is [no] legal ability to recover costs incurred by the Council if the organiser does not make a contribution voluntarily.⁴

2.35 A decade on, we heard similar concerns from local authority officials. We were told specifically, for example, of continuing uncertainty over whether marches and parades counted as the ‘events’ covered under Section 16A of the Road Traffic Regulation Act 1984. We heard that the way in which marches and parades are classified, in particular by Police Scotland, may “make a difference to how they are handled and the environment in which they are facilitated”. We heard specific concerns over the current view expressed by Police Scotland that police emergency powers to stop and hold traffic cannot be deployed for pre-planned *events*. A number of officials queried whether this was actually relevant to marches and parades. We also heard concerns – which we explore below – that the time required to secure a TTRO significantly exceeds the 28 day minimum notification period as laid down by statute.

2.36 It seems clear that it has been, and remains, common practice for police to use powers to stop and hold traffic for short periods so as to facilitate marches and parades. It also seems clear that there was an assumption (and this assumption can be read throughout the [Galas and Events](#) guidance, the Orr Review, and the subsequent [Guidance for Scottish local authorities](#)) that TTROs would only be required where there was a significant disruption to traffic or a particular concern over public safety. Yet it is also clear, as the Galas and Events guidance (Section 1.0) notes, that there was concern over the extent and basis of police powers in the absence of a formal Order:

The practice that has often been followed for a number of years involves the police at a local level assisting to close off roads, control traffic, and generally ensure the safety of the public for the duration of the event. This has been done on an informal basis without the backing of official orders made under the legislative powers bestowed on roads authorities. With the pressures of the increasing traffic demand over the years, and increasing risks to public safety, it may not be appropriate to follow these informal practices. In many instances these practices bring into question the legality of the police activity, as exceeding the powers available to them.

⁴ City of Edinburgh Council, *Report to Executive of the Council: Galas and Events Affecting Public Roads: Guidance to Organisers*, June 2004. Available [here](#).

2.37 These long-standing questions are becoming pressing given the expanding use of Temporary Traffic Regulation Orders to regulate traffic so as to facilitate even very modest marches and parades on public roads. We heard three areas of pressing concern from local authority officials.

2.38 Firstly, TTROs require 12 weeks to secure and their widespread use may sit in damaging tension with the 28 day statutory minimum notification period stipulated by the *Police, Public Order and Criminal Justice (Scotland) Act, 2006*, a key outcome of the Orr Review. Put bluntly, if an organiser notifies a parade 28 days ahead of time, as required by law, can (indeed, should) local authority refuse permission on the sole basis that there is insufficient time to arrange a TTRO? In the absence of clear and accessible information to organisers about when/why TTROs are required, how they are secured, and what costs (if any) would attach themselves to the march and parade organiser, such a position would seem unreasonable.

2.39 Yet the second area of pressing concern is precisely that such questions do not have clear answers. We heard of inconsistent understanding and practice around TTROs and a lack of clarity on the part of key local authority officials as to when and why one would be required for a march or parade. On the one hand we heard of instances where Police Scotland informed local authorities that all marches and parades, regardless of size or location required a TTRO to be in place (on the basis that 'emergency powers' to stop and hold traffic were invalid for pre-notified events). On the other we heard that sometimes police did not raise the issue at all. The strong perception of inconsistency means that many local authority officials feel unsure about when and why a TTRO would be required, and thus unable to advise parade organisers.

2.40 Thirdly, there is very widespread concern about costs to the local authority in securing a TTRO and meeting its provisions (e.g. in terms of barriers, notices and cones) and whether it is appropriate, or practicable, to pass costs on to organisers (especially for small marches and parades). We note an ongoing case of such difficulties for Falkirk Council below.

2.41 We might add to this the further point raised by North Lanarkshire in 2004: it is not at all clear whether unprecedentedly widespread use of TTROs will begin to cause serious disruption to the legal feasibility of marches and parades given that only one TTRO is allowed on any stretch of road in a given calendar year without 'special permission' from Scottish ministers.⁵ Transport Scotland issued guidance on

⁵ The Road Traffic Regulation (Special Events) Act 1994, [Section 16 B \(6\)](#) states:

Where an order has been made under section 16A of this Act in any calendar year, no further order may be made under that section in that year so as to affect any length of road affected by the previous order, unless the further order—

- (a) is made by the Secretary of State as the traffic authority for the road concerned; or
- (b) is made with his consent.

the process of obtaining Scottish Ministers consent through the Society of Chief Officers of Transportation in Scotland in late 2015⁶. Such consent can only be given on a case-by-case basis, and may add to the length of time required to secure a TTRO. It is essential that urgent attention is given to these issues to clarify any uncertainty or confusion in the minds and practices of the key parties to any march or parade. We return to the issue of TTROs below.

Organiser views

2.42 March and parade organisers were, on the whole, appreciative of current procedures and of the major changes put in place after the Orr Review. They have, however, a number of concerns, most notably over perceived inconsistencies between standard conditions and in their actual application; over delays between the submission of a Notification and actual discussion with local authorities and police; on the uncertainties and anxieties created by the current increase in requirements of TTROs; on the ‘licensing mentality’ of some local authorities; on the introduction of various kinds of cost recovery around marches and parades; and regarding some cases of limited or poor engagement with local authorities and police.

2.43 Some of these issues are explored below, but here it is worth noting that several of the concerns of parading organisations echo those heard from local authority officials. Organisations described to us Notifications submitted many months in advance which, nevertheless, may not be confirmed until a matter of days before the parade itself. This has been the case for both large and complex marches and parades and for relatively modest ones. As one organisation put it: “[our notification] is *always* months in advance and [we] *always* get last minute agreement”. There seems, in such cases, to be limited benefit to organisers of ‘early’ Notification, even though it is of clear benefit and convenience to local authorities and police. Whilst some issues may not be clear until around the date of the parade (for example football fixtures or last minute public order concerns) more needs to be done to deal with the more routine aspects of Notifications as early as possible after submission.

2.44 Similarly, where it is clear that ‘additional’ conditions are likely to be attached to a parade, or where the route is thought to be unacceptable, these should be flagged up to Notifiers as soon as practicable – we heard claims of decisions being communicated to processors too late for them to lodge formal appeals. Early response to early Notification is entirely within the spirit of the Orr Review– indeed Orr provided an exemplar ‘timescale’ for Notifications which suggested that an agreed outcome could be, even on the minimum 28 day notification, negotiated some two weeks before the event itself (Orr, 2005: 12.13). It seems reasonable,

⁶ Transport Scotland, 11 September 2015: “Section 16A Special Events – Guidance”. We thank Transport Scotland for drawing our attention to this guidance.

therefore, that a Notification submitted months ahead of the statutory minimum should receive early response.

2.45 Parading organisations are exercised by perceived inconsistencies in standard conditions and in their application. For example we heard of parades where bands were required to march in silence past places of worship whilst street entertainers and buskers played outside without apparent restriction. We also heard claims that ‘standard conditions’ on music were enforced for some organisations’ parades, but ignored for, e.g., Armed Forces or Civic parades. All standard conditions currently issued by Scottish local authorities contain a clear directive regarding the density of the march or parade, usually the maximum and/or minimum number of participants who may march abreast. Such ‘standard’ conditions are seldom enforced for, e.g., political protests and demonstrations but, it was claimed, ‘rigidly’ stipulated for Loyal Order and Irish Republican organisation and, in particular, for their accompanying bands. We also heard (as explored below) claims of inconsistencies relating to other common standard conditions.

2.46 Stewarding was a key issue raised by all of the parading organisations consulted. There has been widespread recognition of the considerable improvements in the capacity of the key Loyal Order and Irish Republican organisations to provide well-trained stewards and marshals to their events. However, the organisations themselves sometimes feel that the levels of their own investment – in terms of their own time and money, and in terms of positive impacts on police costs – are not always adequately acknowledged.

2.47 Very considerable and ongoing stewarding programmes have been undertaken, sometimes ‘in-house’, sometimes with outside (paid) consultants. For example, we heard that 180 members of the Apprentice Boys of Derry (a significant proportion of their membership) have undertaken a full-day of formal training with external consultants, followed up by ongoing in-house events. The Orange Order reports that they have trained 3,000 stewards (again a significant proportion of their membership) through a rolling programme that was developed and previously delivered in conjunction with Strathclyde Police. Since the creation of Police Scotland, this programme has continued without police input. The extent to which such organisations have invested in, developed and maintained steward training programmes should be acknowledged, as should the very positive contribution such stewards and marshals make to successful and orderly parades.

2.48 It might be noted, however, that parading organisations also mentioned a limited police contribution, in particular after the creation of Police Scotland. As already discussed, since 2013 the Orange Order’s programme has become ‘in-house’ and we would encourage both the Order and Police Scotland to open dialogue about returning to full and formal police involvement, even if only in an advisory role. Whilst the Apprentice Boys programme has always been ‘in house’, Police Scotland are routinely invited to training courses and to steward meetings. We

have been told that responses to these invitations have been “geographically patchy”. Cairde na hÉireann reported that whilst they had previously been in dialogue with Police Scotland in terms of steward training, this relationship has broken down and police no longer attend steward briefing meetings prior to Cairde na hÉireann parades. Fuller police engagement in these various aspects of steward training and deployment can only bring positive outcomes in training and in building good relationships, as well as in reducing the police resources required on the day of a march or parade. As one organisation told us: it is “difficult to improve stewarding further when there is no police involvement”.

Recommendation:

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.

2.50 One issue that march and parade organisers found particularly difficult was the breakdown of agreed arrangements on the day itself. On some occasions this was perceived to be down to the view of the police commander on the day. We were told by one organisation that, in relation to the police directions around issues such as the playing of music, “despite prior decision making, it often comes down to decisions made by the police officer in charge on the day – [if they] don’t care or haven’t been adequately briefed”. Where “no real briefing has been provided” to the duty commander on the day “it makes prior discussion and agreement redundant”. Another organisation pointed to delays to marches and parades caused by police insistence that certain flags and banner pole spear-tops – previously discussed and agreed – were removed. Such disputes – often in plain view of rank and file processionists - were seen as unnecessarily (and for some, ‘deliberately’) fomenting dissent and raising the temperature. More than one organisation expressed fears that ‘heavy handed’ policing might provoke reaction, and perhaps public disorder, leading to more stringent policing of future marches and parades.

2.51 Such disagreements illustrate the necessity of careful briefing and an agreed written action plan, as well as de-briefing post-event. All the organisations, however, described debriefs as rare. One Loyal Order reported that they would “only get a debrief if something goes wrong”, though they were confident that some local authorities (Glasgow was specifically mentioned) would facilitate a multi-agency debrief if requested. Another reported that: “the police will send a report to the local authority, who then forward this to the [organiser] – but this is only if something goes wrong and does not allow for any input to the official record or a chance to clear up any misunderstanding”. For Irish Republican organisations, relations with police may have a more strained history and context. One such organisation reported that the “only dialogue [they] have with Police Scotland is on the day of the march” and that they have had no debriefs for over two years, even after a parade to which police themselves raised formal objections and where the organisers requested a debrief.

2.52 Debriefs – and the capacity to hold one even if a key party feels there were no adverse issues – are an important part of the process of dialogue. They allow misunderstandings to be ironed out and help avoid them for future events. They can play a key role in furthering the training of stewards and marshals, as well as allowing for different perspectives to be aired and understood. Where trust is in danger of erosion because of perceived broken agreements, formal debriefs can create an agreed record of events allowing the various parties to avoid such issues or misunderstandings in the future. Maintaining and developing trustful relationships is absolutely key to ensuring that marches and parades remain well-organised, (relatively) easy to facilitate, and orderly in practice.

2.53 Parading organisations felt that a number of issues were beginning to erode relationships of trust built up over many years and over many marches and parades. They pointed to ‘best practice’ by certain local authorities (see, e.g., below on Edinburgh’s Events Planning and Operations Group) being undermined by increased intervention by elected Councillors in areas where organisations had built up relationships with permanent officials. Some pointed to the formation of Police Scotland which, they felt, had led to a standardisation of police approaches which could ill-suit local contexts, and sometimes meant that marches and parades were policed by out-of-district officers who did not know a particular area or route. We also heard that with local authorities sorely stretched as to funding, staffing and resourcing, that face-to-face meetings were less frequent, meaning that opportunities to solve problems before they escalated or, more generally, to build trusting relationships became more limited. Most alarming here is the seeming breakdown of almost all dialogue – before, during, and after parades - between Police Scotland and key Irish Republican organisers.

Recommendation:

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 - de-briefing should take place.

2.55 Given constraints on local authority and police funding, most parading organisations were extremely wary of areas where these agencies were seeking, or were perceived to be seeking, to recover costs from organisers. The most vexed of these related – as we explore below – to Temporary Traffic Regulation Orders and related ‘Traffic Management Plans’, but there were others, such as Glasgow’s requirements that sizeable marches and parades (of 1,000 participants or more) “will be required to identify a suitable park or off street area for assembly and/or

dispersal”.⁷ Whilst parading organisations were not opposed in principle to this requirement, in practice they noted that this introduced fees for the use of public parks, as well as further bureaucracy through having to negotiate ‘Permission To Use’ (PTU) certificates with local authority departments, who often did not view their key role as one of ‘facilitating’ marches and parades. Costs remain one of the most vexed areas of marched and parades processes and policy – expanded use of TTROs and the uncertainties around them are magnifying this.

Section 3: Issues Raised

Static demonstrations

3.1 One of the issues raised by this study, and flagged up to all (potential) respondents, was that of ‘static demonstrations’, that is protests and demonstrations which do not involve a procession from point A to point B. Such events are not covered by the marches and parades legislation and do not require prior notification (though many are notified to local authorities by the organisers). In recent years they have been most associated with controversial (and heavily policed) events held by the Scottish Defence League (SDL) in various parts of Scotland, as well as counter demonstrations to these and to other events. They have also been associated in and around Glasgow with relatively small protest events held by the Regimental Blues, a group associating itself with Scotland’s ‘Protestant-Unionist-Loyalist’ community.

3.2 Parading organisations had little comment on static demonstrations per se, but several noted frustration with a public tendency to roll together *all* Loyal Order and associated parades or *all* Irish Republican groups. Key organisations felt that a poorly stewarded or disruptive event by a smaller group could attract media attention and public concern that would, unfairly, reflect on themselves. There was also a concern that some small groups might be subverting the notification procedures which key parading organisations were adhering to. This might arise where a highly controversial static demonstration was called at location A and the organiser called on members to rendezvous at location B (for example a railway station). In such circumstances police would feel obliged to ‘escort’ participants from point A to point B, in effect a parade which might have been prohibited under the normal Notification process.

3.3 We did hear some concern over static demonstrations from local authority officials and from Police Scotland. In particular, senior police officers noted that it was difficult to impose conditions on static demonstrations even where there were demonstrable concerns. The terms of [Section 14 of the Public Order Act 1986](#) allow for restrictions only where police can show that the event was likely to result in “serious public disorder, serious damage to property or serious disruption to the life of the community” and/or where the purpose of the demonstration was “the

⁷ Glasgow City Council, [Policy and Code of Conduct on Public Processions](#), 2014, p18

intimidation of others”. Restrictive conditions may only apply to the number of people who may take part in the demonstration, its location, and its maximum duration. There is nothing in the Public Order Act that allows the prohibition of a static demonstration.⁸ That such events do *not* require to be Notified in advance to local authorities or to police raises obvious potential difficulties and requires good police intelligence of the likely plans and intentions of groups holding static demonstrations. Police are also limited by the legislative definition of a “public assembly” under Section 16 of the Act: “an assembly of 20 or more persons in a public place which is wholly or partly open to the air”. In England & Wales this definition was amended to “two or more persons” some years ago⁹, and senior police officers feel a similar amendment would be useful in Scotland. At present an assembly of, say, 15 people can only be addressed through common law (i.e. breach of the peace) – senior officers believe that statutory powers are “always better”, and offer more consistent and transparent police decision making.

3.4 We heard concerns raised by one particular authority with regard to static demonstrations. The local authority officers in question expressed some disappointment that these issues had been previously raised with the Scottish Government without significant progress. The local authority raised two specific issues. Firstly, prior behaviour at static demonstrations cannot be taken into account when considering march and parade notifications from the same organisation. Secondly, it is very difficult to engage with the smaller groups who tend to hold static demonstrations. These groups tend to differ from Parading organisations in three particular ways which make it difficult to build dialogue and relationships: they often have volatile membership; they may take ‘hard-line’ positions where they do not wish to engage with local authorities and/or police; and they may find such engagement difficult through organisational inexperience.

3.5 It should be stressed here that static demonstrations were not seen by senior officers as a major challenge to policing, though they sometimes offer more

⁸ Section 14 concerns “Imposing conditions on public assemblies” and reads as follows:.

- (1) If the senior police officer, having regard to the time or place at which and the circumstances in which any public assembly is being held or is intended to be held, reasonably believes that—
 - (a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or
 - (b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do,

he may give directions imposing on the persons organising or taking part in the assembly such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent such disorder, damage, disruption or intimidation.

⁹ The amendment was made in Section 57 of the Anti-Social Behaviour Act, 2003 which does not apply to Scotland.

immediate challenges and resource implications than notified marches and parades, not least when a static demonstration is faced with a counter demonstration. In comparison to the many hundreds of notified marches and parades across Scotland each year, static demonstrations are relatively infrequent and tend to be small scale and in urban centres. It was notable that they were raised as an issue at only one of our local authority meetings, suggesting that they are geographically restricted in their impact.

Recommendation:

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.

3.7 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.

Accessible information and guidance

3.8 It is not always easy to find clear information about forthcoming parades. Parading organisations themselves often tend to ‘advertise’ events only to (potential) supporters, and local authority websites are sometimes difficult to navigate. Clear accessible information for ordinary citizens whose lives and businesses may be inconvenienced is at a premium, although there are some excellent local authority websites whereby information is easily findable, informative and clear.

3.9 The 2008 Consultation on Marches and Parades asked (amongst other things) local authorities to provide details about what information they made available and through what means. Of the 32 local authorities, 17 responded. For the purposes of this study we adopted the perspective of a member of the public who might wish to organise a march or parade, to know about marches and parades in their area, or to make comments on or objections to a march or parade. We have already noted police views, as cited above, that there were wide inconsistencies in the provision of such information.

3.10 To assess this, the websites of all 32 local authorities in Scotland were perused, searching for ‘processions’, ‘parades’ or ‘marches’. If we did not find information on the websites, we hoped to find directions on where such information was held, and how it could be accessed. For the most part, at least some information was readily available. This was not, however, the case for several local authorities.

The website of Comhairle nan Eilean Siar, for example, noted only that “Notification Of Public Processions” was amongst “the various licences, permits and permissions issued by the Comhairle”¹⁰. No further information could be found about marches and parades or who in the local authority might furnish this. The website of Midlothian Council did not appear to contain any apparent guidance on, or information about, parades, marches or processions – although some very limited information about processions and traffic management was found in an Environmental Health *Event Safety Guide for Large Events*. Much of the following, therefore, is based on analysis of the remaining 30 local authority websites. This includes Edinburgh City Council, which does not carry any clear information on its key website, but has devolved it to an ancillary one. That website is very difficult to find and navigate, even for those who know where to look, and there are no obvious directions from the Council’s main site.

Information for organisers

3.11 Some informative and accessible websites represent templates which other local authorities might emulate. Falkirk’s website offers a clear summary of key considerations for organisers and downloads which are well-presented, clear and informative. The Notification form is accompanied with clear Standard Conditions with Guidance notes written in accessible plain language. South Lanarkshire also offers simple and clear ‘how to’ guides relating to responsibilities and to procedures; allows organisers to give Notice online; and presents a clear Code of Conduct.

3.12 Other websites offer examples of good practice: Glasgow’s website offers a very clear overview for organisers, not least of what they can expect the Council to do once a Notice has been received; allows Notices to be completed online; and provides a clear and comprehensive Policy and Code of Conduct on Public Processions. Substantial and clear guidance is also provided by Dumfries & Galloway; East Dunbartonshire; West Dunbartonshire; and West Lothian. Whilst many websites make reference to the legislative framework, North Ayrshire’s website provides direct weblinks to the text of this legislation, again a useful and helpful practice. There are, however, clear improvements which could be made in the way that local authorities present information and procedures.

Recommendation:

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 assessable online. If information is not given online, clear guidance about where it can be accessed is essential.

¹⁰ Accessed at <http://www.cne-siar.gov.uk/licensing/> (31 March 2016)

A 'licensing mentality'

3.14 Several contributors – from a variety of roles - described a “licensing mentality” in some local authorities whereby marches and parades are seen as requiring the ‘permission’ of local authorities. In almost all of Scotland’s local authorities it is the Licensing Departments and Committees which process and consider Notices – some local authorities may thus fall into the habit of treating marches and parades in the same manner as other licensing issues before them. This is, at the least, strongly implicit on a number of local authority websites which treat marches and parades as activities that require to be ‘approved’, ‘licensed’ or ‘permitted’ by the local authority. One local authority, for example, explicitly describes the notification process as “applying ... for this particular licence”, stating that: “Every public procession in [x] will require the approval of [X] Council and [Y] Police”. Notably, the pre-amalgamation police force was named, suggesting that no meaningful revision of the web information had been undertaken for some years. Whilst this was the most explicit misrepresentation of the Notification process, several other local authority websites framed marches and parades in similar terms of ‘permission’.

3.15 This is not simply a matter of semantics: such information is misleading and implies a quite different set of relationships between, and responsibilities of, the various parties interested in marches and parades (the organiser, the local authority and other public authorities, and the police). Building and maintaining strong and mutually respectful relationships between these parties is crucial. Such relationships would ensure continued good practice on all sides and contribute to reassuring the general public that the vast majority of marches and parades in Scotland pass without significant public disorder or anti-social behaviour. Any ‘licensing mentality’, in this respect, is unhelpful, and may set an inappropriate and limiting ‘tone’ in the relationship between organiser and local authority from the outset.

3.16 Good practice in how to frame a more positive and helpful relationship can be found on other local authority websites which give a more balanced view of duties, rights and obligations. Two good examples are North Ayrshire and West Dunbartonshire.

3.17 North Ayrshire frames its guidance in the following clear terms:

Generally, if you intend to hold a public procession, march or parade in North Ayrshire, you’ll need to submit a notice of proposal to the council.

The legal position of processions is different from the licences we grant, for example to drive a taxi or run a public house. We are not granting a licence or allowing the procession. The question we ask is "should this procession be prohibited?"

North Ayrshire Council can only prohibit a procession for specified reasons laid down by legislation [...] We cannot prohibit a procession because the views of the participants are controversial.¹¹

3.18 West Dunbartonshire also offers a useful general framing:

The European Convention of Human Rights gives a 'right to freedom of peaceful assembly', and the Council has a positive obligation to protect that right. However that right can be restricted, for example to protect public safety or prevent disorder. The Council cannot prohibit a procession simply because some people may be offended by it.¹²

Recommendation:

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 organisers. Good practice examples to facilitate any general 'refresh' of materials are readily available.

Processing Notifications

3.20 A key recommendation in the Orr Review was that both local authorities and police "should set up 'single gateways' within their organisations to deal with procession notifications"¹³. Good practice in this regard is widespread, with most local authorities having gone somewhat further than the minimum expected. Whilst Orr assumed that Notifiers would give Notice to the local authority and police separately, most Scottish local authorities now take responsibility for passing Notices to Police Scotland, in effect offering *one* Single Gateway. Doing so saves time, reduces the possibility of confusion or error between the two state agencies, and creates a simpler system for parade organisers.

3.21 On several occasions during this study two particular arrangements were described as 'best practice': Edinburgh's Events Planning and Operations Group (EPOG) and Scottish Borders' Safety Advisory Group (SAG) process.

3.22 Edinburgh's EPOG arose out of the advisory groups recommended for large sporting events and has now been used in non-sporting contexts for 20 years. The EPOG can be defined as:

A co-ordinated multi-agency approach to event and crowd safety [providing] all participating agencies with consistent information throughout the planning process.

¹¹ <http://www.north-ayrshire.gov.uk/business/licences-and-permits/entertainment-licences/public-processions-notice.aspx>

¹² <http://www.west-dunbarton.gov.uk/business/licences-permits-and-permissions/parades-and-demonstration/>

¹³ Orr, Recommendation 4 (p142)

3.23 The EPOG considered over 150 events during 2014 and thus constitutes a considerable saving of inter-agency time and effort¹⁴. Perhaps just as importantly, the regular meeting of these agencies with parade organisers – often in less formal and intimidating surroundings than Council Committee rooms – helps to build good relationships upon which trust can be invested and difficult decisions made through dialogue.

3.24 We heard the EPOG system highly praised from a number of sources – from police and local authority respondents, as well as from Parading organisations. Notably the EPOG model was picked up and developed by Scottish Borders Council from 2012.

3.25 Scottish Borders' 'Safety Advisory Group' brings together key agencies and event organisers. Representatives of Scottish Borders Council, Police Scotland and Trunk Roads operators are present at each meeting, with standing invitations to the Scottish Fire and Rescue Service and the Scottish Ambulance Service who attend when they feel appropriate. Other agencies may attend depending on the event in question.

3.26 The benefits of such a multi-agency approach are varied, but key here are that it “provides a ‘one stop shop’ for event organisers. Prior to the introduction of SAG, event organisers had to send emails and make phone calls to many agencies and departments. Now they have everyone they need to meet around the table”. In working with the SAG event organisers are required to produce an event plan clearly outlining the safety elements to their proposed event, and “are provided with multi-agency assistance in producing these plans, where required”.¹⁵ Repeated engagement through the SAG thus builds the organisational capacity of organisers and builds good relations and trust. The SAG process has, for example, markedly improved the stewarding of key ‘Common Riding’ events in the Borders, reducing the police resources required.

3.27 In 2015, the Convention of Scottish Local Authorities (CoSLA) recommended the SAG model to its members, and it is anticipated that this model will be rolled out across Scotland.

3.28 Whilst we welcome that initiative, and the pooling of resources, knowledge and best practice that it will promote, we would note some recent issues relating to Edinburgh's EPOG system. We heard concerns expressed both by parading organisations and some local authority officials about the capacity of Edinburgh's EPOG to continue to deliver the good relations noted above. In recent years there

¹⁴ See, e.g., *Report of the Events Planning and Operation Group's work from January 2014 to December 2014*, submitted to the City of Edinburgh Council, Culture and Sport Committee, 10 March 2015.

¹⁵ We acknowledge the assistance of Kevin Sewell at Scottish Borders Council in providing information about the SAG model.

appears to have been a rising number of marches and parades which, notwithstanding the EPOG process, are remitted to Edinburgh's Licensing Sub-Committee¹⁶. Parade organisers reported that 'agreements' made within the EPOG – which has delegated powers to make decisions where notifications are not remitted to the Licensing Sub-Committee – have been called into question, or reversed, at Committee. Several felt that the dialogue and long-built relations of trust built up through EPOG were undermined at Committee, in some part through a 'licensing mentality', in the formalised style of its meetings and the 'politicisation' of the process through increased involvement of elected members. The principle of the EPOG process itself is viewed in very high regard but recent procedural changes have appeared, in effect, to have undermined good relationships built up over a number of years.

3.29 It seems clear that those few local authorities who still require organisers to separately Notify Police Scotland should adopt the practice of most local authorities and take responsibility for this. The good practice as found in, for example, Edinburgh and Scottish Borders has been shared with other local authorities through CoSLA – and the Scottish Government might give some thought as to how to best support CoSLA in encouraging the widest dissemination and implementation of good practice in planning around marches and parades. Crucially, where decision-making powers are not delegated to 'safety advisory groups' this needs to be clear to march and parade organisers so that they understand the basis of the discussion. Thought should also be given to the unintended consequences of procedural changes to the relationships and dialogue built up previously.

Recommendations:

3.30 Local authorities and police should give further serious consideration to using the 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.

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.

Codes of Conduct and Standard Conditions

3.32 Most Scottish local authorities (21 of 32) provide very clear online documents relating to the 'Code of Conduct' and/or 'Standard Conditions' applied to all marches

¹⁶ Two key reasons for this are the Committee's decision that it must consider any procession which traverses the city's High Street or are in some way 'controversial'. The Edinburgh Tram Acts 2006, having displaced most processions from Princes Street the Council is understandably sensitive to the volume of events occurring in the High Street, but the second reason for passing to Committee is ill-defined.

and parades in their area. There is much, therefore, by way of good practice in this regard and ample and varied templates for Codes of Conduct/Standard Conditions which could be easily tailored to local conditions.

Recommendation:

3.33 Those local authorities who do not have clear codes of conduct and/or 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.

3.34 There are several other issues relating to Codes of Conduct/Standard conditions which were raised by our contributors and are worthy of further consideration.

Stewards and Marshals

3.35 Most local authorities make specific comment on the expectation they have of organisers providing adequate stewards and marshals for their march or parade. Effective stewarding is central to a successful event and can allow organisers to take control of their event whilst reducing demands on police. Many local authorities expressly define the required ratio of stewards to participants as 1:10, whilst others state no particular ratio, noting only that “sufficient stewards and marshals shall be present to ensure that participants comply with directions”. There is no reason why a definitive ratio should be given by all local authorities, not least since local conditions and contexts should be paramount, and given that some organisations have highly skilled and trained stewards whilst others do not.

Recommendation:

3.36 Where guidance is not already provided on what minimum level of 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.

Music (time restrictions and other specific exclusions)

3.37 Around two thirds of local authorities (22 of 30) make specific mention of the music/bands accompanying marches and parades. This is of obvious relevance to both Loyal Order and Irish Republican parades: both have musical traditions which form intrinsic parts of their events. Both, more broadly, also feature parades organised by bands (or band alliances) quite separately from the key organisations. Local authorities make two types of limitation specific to the playing of music – those relating to time of day and those relating to the cessation of music around specific places or buildings.

3.38 There is considerable variation across those local authorities who place explicit time restrictions on the playing of music at marches and parades reflecting local conditions and contexts, and many local authorities are quite clear that these are guidelines which may be varied under certain circumstances.¹⁷ Such flexibility is laudable given that music can be at the very heart of the culture of a given march or parade, but may simultaneously be – especially during the early morning near residential areas – the aspect of the parade most disruptive to the general community.

Recommendation:

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.

3.40 The other restriction many local authorities make around music relates to particular spaces and places, the most common of which is a ‘place of worship’. Most Councils who make standard conditions on music stipulate that bands should cease to play when approaching or passing a place of worship when a service is in progress; sometimes adding the provision “as instructed by the police”. Other local authorities ask bands to cease playing when passing a place of worship *per se*, with East Renfrewshire and Glasgow adding the explicit codicil “irrespective of whether a service is in progress”. Several respondents, particularly (but not only) the Loyal Orders, noted practical difficulties around interpretation and application of these Conditions with regards to music.

3.41 Firstly, the provision “as instructed by the Police” suggest a flexibility on what actually happens on the day. That flexibility can be a positive for paraders, in that it puts the onus on Police to indicate which places of worship might be conducting services. But it may also be a negative, should commanding officers lack local knowledge or appear to ‘contradict’ past practice. The question arises: whose responsibility is it to identify ‘places of worship’ along a march or parade route? This is important since not all such places will be (architecturally) ‘obvious’ to ordinary citizens. Glasgow Council notes that such places are those which “have been established by the Council as being in regular use for the purpose of religious observance”. This takes clear responsibility for such definition and communication of such to organisers and police and represents best practice.

3.42 A second point relates to why only ‘places of worship’ might be thought sensitive to musical disruption. It is not at all clear, for example, why a marriage ceremony in a Registry Office or other venue should not be deserving of the same

¹⁷ The earliest (normally) allowable time for music ranges from 07.30 through to 10.00; the latest (normally) allowable ranges from 18.00 through to 21.00

considerations as one in a place of worship. This is of practical importance since most marriage ceremonies in contemporary Scotland – about three in every four – do not take place in a place of worship¹⁸. Edinburgh Council offers a broader definition suitable for a multi-faith and considerably secularised Scotland: it asks that music ceases whilst passing “any place of worship or any other location where a recognised religious, cultural, or legal ceremony is taking place”. This covers a very wide range of possible ‘solemn occasions’ which might be seen as needing a reasonable degree of quiet (and upon which we heard no disagreement from any parading organiser who readily accept the need to respect such occasions). It does, though, re-emphasise the need for local authorities to take the lead in identifying likely places where such ceremonies might be taking place so that march and parade organisers and police can be adequately briefed beforehand. This could go some way in reducing perceptions that some parades are unreasonably disruptive because of their musical traditions.

3.43 Other local authorities also note that “further restrictions may be required after considering the type of premises on the proposed route e.g. residential developments, places of worship, football grounds and public houses.” Although vague, this formulation retains considerably flexibility and alerts march and parade organisers to the fact that local circumstances and contexts need to be considered in the processing of their notification, and might form part of the dialogue and negotiation around proposed timings and routes.

3.44 A final point relates to the implication (or, in some cases, direct stipulation) that music should cease when passing a place of worship irrespective of whether or not a service or ceremony is taking place. Whilst such a ‘blanket’ rule might offer more ready interpretation on the day (not least if the place of worship is architecturally distinctive, such as a traditional church or mosque), the three Loyal Order’s view this as having a disproportionate and negative impact upon their parades.

3.45 There does indeed seem to be a good case to suggest that such ‘blanket’ restrictions may well be disproportionate. Concretely, this relates to the decision by Edinburgh Council in 2014 to add the words “whether or not services are in progress” to their Standard Condition (a decision that seems to have been taken without wider stakeholder consultation). When the Council’s Licensing Sub-Committee sought to apply the amended Condition to two notified parades, a legal

¹⁸ Half of marriages in Scotland are civil marriages, of which around half take place in Registry Offices and half in other places. Around half of the religious marriages are not conducted in places of worship. This means that only one-quarter of marriages take place in a place of worship. See *Scotland's Population 2014 - The Registrar General's Annual Review of Demographic Trends*, National Records of Scotland, 2015 (<http://www.nrscotland.gov.uk/files//statistics/rgar2014/rgar-14-corrected.pdf>)

challenge was mounted and the parades took place without the added restriction on music. Subsequently Edinburgh noted that the additional clause “would likely be regarded as unlawful by the Sheriff” and the Council removed the words “whether or not services are in progress”.¹⁹ It is not clear whether this legal advice was shared with other local authorities, not least those with the identical clause, nor what relevance it might have for future legal challenges.

Recommendations:

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 Council’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.

3.47 Local authorities should consider whether a ‘blanket ban’ on music around places of worship or places where religious, cultural or legal ceremonies take place, regardless of whether a service or ceremony is taking place, is disproportionate.

Weapons and Halberds

3.48 Another issue brought to our attention by some organisers was claimed inconsistency on whether or not spear-tops on banner poles (generally, if rather inaccurately, described as ‘halberds’) were acceptable.

3.49 This issue is mentioned by 13 Local Authorities, of whom 11 make the unequivocal statement that ‘No halberds or weapons of any description shall be carried’. Two Local Authorities carry standard conditions open to considerable interpretation. Falkirk passes responsibility to the police to decide the (presumably relatively rare) occasions when such adornments are acceptable. Glasgow insists that such items are prohibited, except where prior agreement has been made. Whilst these positions seem sensible – allowing for some contextual flexibility - Glasgow’s final clause notes that prior agreement is subject to ratification ‘on the day’ by the Police commander. This seems unnecessarily vague and open to possible feeling that prior agreements may be ‘reneged upon’. Wherever possible such details should be discussed and agreed prior to the actual day of the march or parade, and adhered to by all parties (unless a genuinely unforeseen contingency arises).

¹⁹ Policy and Code of Conduct on Public Processions , City of Edinburgh Council Regulatory Committee, 01 February 2016 (sections 3.10, 3.11)
http://www.edinburgh.gov.uk/download/meetings/id/49666/item_61_-_policy_and_code_of_conduct_on_public_processions

Recommendation

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.

Information for the public

3.51 There is a very mixed quality of accessible information available online to those who might wish to find information about marches and parades in their local area and/or who wish to make formal comments on or objections to a march or parade. The 2008 Consultation on Marches and Parades found that individuals respondents (though notably few in number) were, “in the main, unaware of when marches take place in their communities” (p4). This is disappointing since such information relates directly to several recommendations made in the Orr Review:

[9] Local authorities should prepare an annual digest of processions with organisers at the beginning of the calendar year and update it every quarter and ensure the digest is well publicised and accessible.

[10] Local authorities should provide up-to-date information about forthcoming processions to local communities using the most appropriate means.

[11] Local authorities should maintain an ‘opt-in’ list for organisations to receive information about processions

[12] Local authorities should establish mechanisms appropriate to their areas to ensure that communities are able to express views on processions.

[13] Local authorities should take into account wider views, including community views, when taking decisions on procession notifications.

[14] Local authorities should put in place clear procedures for considering community views.

3.52 The Scottish Executive’s *Guidance for Scottish local authorities* of 2006 noted (point 36) that it would be ‘good practice [for Councils] to keep and regularly update a list of processions on their website’; recommended [point 38] facilitating those who may wish to make representations or objections by defining the acceptable time limits and appropriate contacts; and, recommended [points 51 through 53] that “opt-in lists” be created to circulate information²⁰ to those who wished to be informed. Whilst making these available online goes beyond the strict statutory obligations of local authorities, they seem sensible and cost-effective ways to meet the letter and the spirit of the 2006 Act.

²⁰ The ‘opt-in’ lists were seen as an efficient means to meet existing Council obligations under section 63(10) of the *Civic Government (Scotland) Act, 1982*.

3.53 It is somewhat disappointing to note, therefore, that almost a decade on from that guidance the websites of twelve Local Authorities appear to give no information (nor indication of where one might find such information) whatsoever about forthcoming or past marches and parades; and only 16 Local Authorities' websites furnish any information about making representations about, or objections to, a forthcoming parade (though in some cases this information is vague). Clear information on opt-in lists is relatively rare. Good practice in these areas of information can be found on the websites of many local authorities, and the following sections highlight some of the best of these.

Future Marches and Parades

3.54 Of the 32 Local Authority websites explored, approximately one third (n = 12) appeared to contain no information about future marches and parades and nor did they indicate where such information might be held and how to access it. Best practice related to future marches and parades (and, indeed, a digest of past marches and parades) would provide accessible information about all Notified marches and parades with sufficient detail on the purpose/organiser, start time and date (with estimated end time), and details of the route. Good practice in this regard is found on the websites of, amongst others, Glasgow, Inverclyde and North Lanarkshire Council, although the sheer volume of marches and parades in these areas means some kind of search or browse function would be extremely useful.

3.55 Very good practice is represented by Falkirk Council which provides a clear and accessible list of forthcoming marches and parades, with good information on dates, times and routes. Usefully each march or parade description is followed with information on how to make a comment or objection, and to whom and by when the comments should be made.

3.56 Best practice is represented by the website of South Lanarkshire Council which offers a clear and comprehensive list of marches and parades with full information including a clear indication of the deadline for comments and/or objections. In most cases, information on confirmed marches and parades is accompanied with a downloadable map of the route. The list of marches and parades can be browsed by A-Z of organisation, or by date (past/this month/forthcoming).

3.57 It is clear that some local authority areas are faced with far more marches and parades than others and thus face a considerable administrative task in assembling relevant information and making it available in an accessible form. Many local authorities already utilise the [Tell Me Scotland](#) web portal to provide information on public notices on traffic, planning and licensing and Renfrewshire currently advertise their march and parade Notifications through the site. This may be one option for local authorities who do not currently have adequately comprehensive and accessible lists online.

Recommendation:

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.

Opt in lists

3.59 Very few local authority websites referred to 'opt-in' lists, let alone gave clear details on their purpose and how to be added. Two examples stood out as good practice.

3.60 Highland Council offer a clear flagging up of where and how individuals and organisations can add themselves to a geographically-defined area list for information on notified marches and parades. Similarly, South Lanarkshire offers a clear opt-in form allowing applicants to choose from 14 local areas and indicate how they wish to be kept informed.

3.61 Notably the 2008 Consultation on Marches and parades reported that 14 local authorities "indicated they now had an 'opt-in' or key interest groups list, to whom they sent details of forthcoming marches and parades" (p7). It is clear that most of those local authorities are not advertising that fact on their websites, and they should be encouraged to do so as to include as wide a range of interested individuals and organisations as possible. Those without opt in lists (which appear to be a majority of local authorities) should introduce them.

Recommendation

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.

Facilitating Representations and Objections

3.63 A key element in facilitating representation about, and objections to, notified parades is knowledge about them, and it will be grasped that in some local authority areas the lack of any online information about what events have been notified (or on how to access or receive such information) sorely undermines the capacity of 'ordinary' people to make their views known.

3.64 Less than half the local authority websites (n = 15) give information on how to make comments or objections about marches and parades, and for a number of these the information and guidance is vague or limited.

3.65 There are however, several examples of good practice that could be usefully emulated. East Ayrshire, South Lanarkshire, West Dunbartonshire and West Lothian invite representations and comment and provide clear contact details and dates by which comments should be made. On the West Lothian site, helpfully, the process for Objections is given equal prominence to that for Notifications – this means that information is very clear and up front.

3.66 Relatively little guidance, however, is given on what kinds of comments and objections local authorities can meaningfully act upon. This would be useful since we heard the frustration from some local authority officials that many of the Objections they received fell outside what could be acted upon. We also witnessed one Licensing Committee accepting into the record a late Objection about a parade based on the claim that it would disrupt a wedding which, it transpired, would not take place until several hours after the march or parade had dispersed. It would seem useful for local authorities to carefully screen Objections such that those which fall outside what local authorities can act upon, or which are inapplicable for other reasons, are not needlessly or uncritically introduced into negotiations with organisers. This might be made more transparent, for all parties, through clearer guidance and processes.

3.67 Such guidance need not be long-winded nor heavy handed. Best practice in this regard can be found on the website of Falkirk Council. This offers [Guidance Notes on How to make Representations](#) which are given as much prominence as the other downloads and are clear and concise with full contact details. Helpfully they note: “We consider the effect that the public procession would have on **public safety, public order, damage to property** and the **disruption to the life of the community** when deciding whether to prohibit the holding of a procession or impose conditions on it”.

Recommendation:

3.68 Local authorities should provide clear and concise guidance on how to make comments or objections about marches and parades and on what considerations can be taken into account.

Temporary Traffic Regulation Orders

3.69 The above report has commented repeatedly on issues related to Temporary Traffic Regulation Orders. This was a subject repeatedly raised by parading organisations and by local authority officials without prompting, and was highlighted as an area in need of urgent clarity and consistency. Strikingly, several questions – which appear anything but new – have exercised local authorities and parading organisations, not least when and why a TTRO might be necessary for a march or parade.

3.70 These issues were illuminated through three relatively small Orange Order parades in the east of Scotland in the summer of 2015, all of which saw differing arrangements around the securing of a TTRO²¹. Angus Council arranged for the TTRO which Police Scotland had defined as necessary for an Orange parade in Forfar; likewise Midlothian Council (after some discussion) did so for a parade in Penicuik. In Perth, however, Perth & Kinross Council’s Licensing Committee heard that Police Scotland had no objections to a proposed parade “providing a TTRO is in place”. Since no TTRO had been applied for – the Licensing Committee’s view being that it was the notifier who should apply for the order – Police Scotland’s view was treated as an ‘objection’²². The Perth Orange Lodge was told that all public marches and parades required a TTRO on the basis that Police Scotland were unable to use their emergency powers for pre-notified events. The Perth parade was thus made subject to the condition that a TTRO was put in place by the notifier²³. This condition was challenged in Court, and the Council subsequently agreed to arrange and pay for the TTRO.

3.71 These three cases highlight quite different ideas about who need apply for a TTRO in relation to a march or parade (although in each case, ultimately it was the local authority who applied) – but in each there was a determination, by Police Scotland, that a TTRO was required. Throughout this study we heard confusion on the part of parade organisers on just when (and why) a TTRO would apply to one of their parades, were told of marked differences by local authority areas about when (or whether) a TTRO would apply to any march or parade in that area, and heard of different local authority processes. It seemed clear that in some local authority areas, march and parade organisers knew little about TTROs because the local authority dealt with them in their entirety: in other areas, organisers were faced with what seemed to be inconsistent local authority policy.

3.72 What does seem to be consistent is that the TTRO issue springs, in key part, from Police Scotland’s interpretation of the limits to their capacity to stop and hold traffic, even temporarily, under their ‘emergency powers’. This interpretation appears to be fairly recent (although, as noted above, there has been some question over the legal position over a number of years) and it is not (yet) clear whether this interpretation is being acted upon across Scotland, or only in certain territorial Divisions. Police Scotland’s Dundee Division wrote, for example, to Angus Council in [January 2014](#) to notify them of “changes in the way that Police Scotland will deploy to events, which may have the potential to impact upon events run by you”. Crucially

²¹ I am grateful to the County Grand Orange Lodge of the East of Scotland for information relating to these.

²² Agenda and documents available: <http://www.pkc.gov.uk/CHttpHandler.ashx?id=30913&p=0>

²³ Minutes available: <http://www.pkc.gov.uk/CHttpHandler.ashx?id=32108&p=0>. See also Perth and Kinross Council Licensing Committee, *Statement of Reasons in respect of the granting of an Order to impose a condition on the holding of a procession for St Andrew’s True Blues LOL 209*, June 2015

these included the claim that police could not stop traffic for a planned event (here expressly including parades) without a TTRO:

“Only where a TTRO exists do police officers have the legal powers to direct traffic on the public highway other than in an emergency situation [...] You should be aware that whilst officers deploy to parades on the public highway, and will continue to do so, police officers are not entitled to utilise their emergency powers at parades or other planned events”.

3.73 The logical outcome of this position is that all marches and parades, whatever their size and purpose, will require a TTRO if it is to occupy any portion of the public highway. This report does not discuss whether or not such an interpretation is legally sound – though such a discussion would be extremely worthwhile. Instead it outlines (a) the extent to which this interpretation differs with the (perhaps implicit) role/understanding of TTROs in the recent past, and, (b) various impacts the interpretation will have on marches and parades in Scotland considered in the round.

TTROs – a changed understanding?

3.74 It is quite striking that traffic and road related issues barely feature in the Orr Review, despite the very broad scope and activity of his review and the knowledge and experience, as a retired police officer, Orr brought to bear. Indeed Orr’s index contains just a handful of references to road closures or traffic legislation. Even here, his report is merely suggestive: references to TTROs are framed within “other legislation which might apply to marches and parades depending on the particular facts and circumstances of each march/parade” (5.46). It will be immediately grasped that such a contextual framing is incompatible with the view that every march and parade will require a TTRO.

3.75 The *Guidance for Scottish local authorities 2006* refers to the *Galas and Events* guidance of 2005 but neither document highlights TTROs in any significant way and is vague on when and why a road would need to be closed for the kind of march or parade considered here. Strikingly, and as noted above, the *Galas and Events* document followed a Scottish Executive consultation on a range of traffic issues in which some local authorities noted considerable confusion on when a TTRO would be required and the status of police action related to marches and parades and traffic where an order was not in place.

3.76 Traffic regulation did not feature at all prominently in the Scottish Government’s *Consultation on Marches and Parades* of 2008, in Strathclyde Police’s *Loyalist and Republican Parade Review* of 2010, or in the *Community Impact of Public Processions* report. Neither Glasgow City Council’s *Review of Policy on Public Processions* nor the subsequent *Policy and Code of Conduct for Public Processions* it agreed in 2014 emphasise traffic management issues. Notably, Glasgow’s 2014 policy notes only that “In certain circumstances a TTRO (Temporary

Traffic Regulation Order) will be required to allow the Procession to be undertaken safely” (p16).

3.77 Little further information or guidance can be gleaned from local authority websites. References to TTROs and marches and parades were found on only seven local authority websites. At best, the information available referred to the 2005 Galas and Events guidance, but more frequently noted only that a TTRO ‘may’ be necessary under ‘certain circumstances’. Nowhere are such circumstances further explained. Perth & Kinross Council’s website notes only that organisers “are responsible for meeting the cost of a Road Order if it is necessary to close a public road for your event”. No context is given as to what makes it necessary to close a road, although the Council had previously informed a parading organisation that all marches and parades would require a TTRO (see above).

TTROs as an urgent issue

3.78 There seem to be at least five issues relating to the legal context that need to be urgently explored and clarified:

- Marches and parades of the kind discussed here are not specifically referred to in Section 16A of the *Road Traffic Regulation Act 1984* and Sections 16A-C of the *Road Traffic Regulation (Special Events) Act 1994*. These Acts specifically refer to “relevant events” defined as “any sporting event, social event or entertainment which is held on a road”. Notwithstanding their explicit absence from the wording of these Acts, are marches and parades to be included?
- What powers (if any) do Police Scotland have in temporarily stopping and holding traffic to accommodate a march or parade in the absence of a traffic order?
- What impact does any requirement for a TTRO – given that they can take around 12 weeks to secure - have upon the provisions of the *Police, Public Order and Criminal Justice (Scotland) Act 2006* and the stipulation of a minimum 28 day notification period?
- What arrangements (if any) are required (or have been made) to accommodate increasing use of TTROs to the stipulation of *The Road Traffic Regulation (Special Events) Act 1994 (Section 16 B (6))* that only one TTRO may be made on a given stretch of roads in any calendar year without the special permission of Scottish ministers?
- Given the clarification of the above questions then two broader questions could be answered: when is a TTRO required in relation to a march or parade, and for what reason?

3.79 These issues are urgent because of the impact they are having on local authorities and on parade organisers and upon the relationships between them. Without guidance on the when and for what reason questions, local authorities cannot provide clear guidance to organisers – and we have already seen that some parading organisations are willing to take local authorities to court over such issues. It would be preferable for all parties that the issues here are clarified without recourse to lengthy and costly court proceedings.

3.80 Local authority officials noted that facilitating small marches and parades and managing traffic can be made more difficult where a TTRO is in place. Whilst local authorities understood and appreciated that, for very large events, TTROs can be worthwhile and helpful, they believe that the vast majority of smaller marches and parades and events can be facilitated more effectively - and take place more quickly - without the need for a TTRO. As an example, a minor march or parade can go down one side of the road only, avoiding the need for road closures. TTROs can take away the flexibility of rolling road closures and means whole stretches of road are closed unnecessarily, having a disproportionate impact on traffic flow and heightening public inconvenience.

3.81 There are also pressing questions over the costs of securing a TTRO and implementing any resultant Traffic Management Plan, and over who should meet such costs. If local authorities are to absorb these costs, this will be a very major burden on already hard pressed budgets. If some or all of the costs are passed on to march and parade organisers, then it might make it practically impossible for some organisations to continue to parade - and here we must consider the impact on all organisations who currently parade, not simply those that are the focus of this report. If *all* marches and parades must secure a TTRO, and if costs are passed on to organisers, then it is difficult to see how many charitable, local community or gala events could continue.

3.82 It might be noted that during the final editing of this report precisely such uncertainties surfaced in Falkirk Council, who – in the absence of clear policy - decided to temporarily meet the £725 fee in securing a TTRO for a march or parade, and consider, on a case by case basis, awarding organisers some funding towards meeting the costs of the resultant Traffic Management Plans. That this issue arose with regards to an Orange Order parade meant that the Council's decision met with considerable (and largely hostile) media coverage²⁴. The underlying issue facing the Council, however, was that *all* marches and parades now appear to 'require' a TTRO and would therefore incur similar costs.

²⁴ Newspaper headlines on 18th and 19th May 2016 included: "Council to cover Orange order march costs worth thousands of pounds" (*The Herald*); "Fury as Labour councillors award community grant cash to the Orange Order for Falkirk march" (*The National*); "Falkirk Council 'to help pay Orange walk costs'" (*The Scotsman*).

3.83 Local councillors were quoted as feeling that the police had “washed their hands” of their traffic responsibilities and complained about the lack of prior consultation. In response, a senior police officer told the local press: “It’s a difficult situation, but we’ve got to draw the line somewhere in terms of what we can do and what we cannot do. We don’t have a legal responsibility for the closure of roads or the enforcement of traffic restrictions at pre-planned events.”²⁵

3.84 This report makes no judgment on whether or not the Police Scotland interpretation of their emergency powers, or lack thereof, in terms of pre-planned marches and parades, is correct or reasonable. However, it seems absolutely clear that the current situation is sorely lacking clarity and has potential to do damage to existing procedures and relationships. We might add here the grey area of whether passing costs on to organisers would be reasonable or proportionate under Human Rights legislation and – even if they were strictly legal – whether they would be desirable from a broader democratic perspective. The urgency of these questions are thus relevant to every community and organisation in Scotland, not simply parading organisations.

3.85 We would conclude here with two very specific reasons that urgent action is necessary. Firstly, several local authorities have already altered – or are preparing to alter - their general guidance to reflect the tension between the lengthy period required to secure a TTRO and the 28 days required from organisers. This may also reflect the fact that ‘block advertising’ TTROs on a quarterly, rather than ad hoc or monthly, basis may have considerable cost savings. Whatever the motivations, the outcome may be a tension between legislation and practice.

3.86 West Lothian Council, for example, note in their [event guidance](#) that “In order that we can issue an order in plenty of time prior to your event it is recommended that at least 3 months’ notice is given of your event, longer if it is a large event likely to require a road closure”. Midlothian, in their [Event Safety Guide for Large Events](#), note that given the potential need for a TTRO “A minimum of twelve weeks’ notice should be allowed when applying for permission to hold processions, marches and parades in public places.” City of Edinburgh Council are reviewing their *Policy and Code of Conduct on Public Processions* and propose the following guidance:

Section 2: “Where a road closure or parking restriction is required a TTRO would be necessary to close any roads or to prohibit parking etc. The application process for a

²⁵ *Falkirk Herald*, 19th May 2016, “Police accused of ‘washing their hands’ of traffic role”, Read more: <http://www.falkirkherald.co.uk/news/crime/police-accused-of-washing-their-hands-of-traffic-role-1-4132359#ixzz49Cvwxseo>

Falkirk Herald, 20th May 2016, “‘We have to draw a line somewhere’ says Falkirk’s top cop”; <http://www.falkirkherald.co.uk/news/we-have-to-draw-a-line-somewhere-says-falkirk-s-top-cop-1-4133510#ixzz49Cu0CgKS>

TTRO under the Road Traffic Regulation Act for processions and the timescales associated with this process means the Road Services team will require longer than the normal 28 day notification period required under the Civic Government (Scotland) Act 1982. A minimum of 12 weeks' notice is required to allow the Council to meet its statutory obligations."²⁶

3.87 Given that the underlying questions of when and for what reason a TTRO might be applicable to a march or parade remain opaque, and given evidence that Police Scotland may regard a TTRO as required for every such march and parade, then we are faced with a clear conflict between the practices of local authorities and the 2006 Act. Edinburgh are concerned that they require 12 weeks' notice "to allow the local authority to meet its statutory obligations", yet the only statutory obligations for organisers is that they give 28 days' notice. The potential here for legal challenge is obvious, though we should also note the general *unreasonableness* of saying to organisers on the one hand that they must give 28 days' notice, and then on the other say that it will not be possible to facilitate their march or parade for three months.

3.89 That 'unreasonableness' is acutely felt not only by parading organisations (which are understandably vexed upon this issue), but also by local authority officials. The confusion this issue is contributing to, and the creation of additional work for local authorities, is seriously eroding the good relations built up over a number of years between local authority officials and parade organisers. One senior official told us that the TTRO issue had 'set back [Council-organiser] relations' in their Council area 'by twenty years'. Key parading organisations, most notably the Orange Order, strongly agree. The TTRO issue is not simply undermining the legislative outcomes of the Orr Review, but the good relations, often tentative and fragile, that it encouraged. The Orr Review was a major piece of consultation, which raised the minimum statutory notification period to 28 days after careful consideration and with a very broad consensus between all key parties. That consideration, and that consensus, is now seriously undermined.

Recommendations:

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.

²⁶ City of Edinburgh Council Regulatory Committee, 01 February 2016 - [Proposed Policy and Code of Conduct on Public Processions](#)

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.

Section 4: Conclusion

4.1 It should be emphasised that the recommendations of this scoping exercise speak to an important fact of all marches and parades in Scotland, including those organised by the Loyal Orders and by Irish Republican organisations. That fact is that such marches and parades are generally characterised by the professional approach taken by the three key parties involved (the parading organisation, the local authority, and Police Scotland). The vast majority of these marches and parades are well-organised, have undergone tried and tested processes of notification and negotiation, and pass off in a peaceful and orderly fashion. Most recommendations, therefore, have the ambition to fine tune a system that, by and large, works very well indeed.

4.2 There are however, important recommendations relating to the current ambiguity and uncertainty relating to Temporary Traffic Regulation Orders (TTROs). This uncertainty is corrosive of the good relations and trust built up between parading organisations, local authorities and Police Scotland – but also has implications for all marches and parades. Good relations and trust – built through dialogue and through good experiences and fulfilled promises (from all sides) on the ground – is essential to the continued positive experiences around marches and parades in Scotland. It is also essential to the long term reduction of public anxiety and concern around marches and parades.

4.3 Finally, one concern of public agencies in Scotland has long been that there are “too many” marches and parades in Scotland, and a reduction in their number would necessarily reduce the burden on local authority and police resources, and reduce the impact and inconvenience experienced by local communities. If there is to be a long term reduction in the number of marches and parades, then this will be achieved through good relations and continued dialogue. It is to those issues that I would most direct the attention of the Scottish Government.

Appendix A

Text of letter sent to contributors:

MARCHES, PARADES AND STATIC DEMONSTRATIONS IN SCOTLAND

Dr Michael Rosie, Senior Lecturer in Sociology at the University of Edinburgh, has been invited by the Scottish Government to provide independent advice on marches, parades and static demonstrations in Scotland. I am writing to you as someone with an interest in this issue to invite you to meet with Dr Rosie so that he can hear your views on two key questions:

- Has the organisation, administration and policing of marches and parades in Scotland improved since the publication of Sir John Orr's Review of Marches and Parades in Scotland, published in 2005?
- What are the current issues and/or problems that you currently experience and what action would you like to see taken in response to these?

Ten years on from the 2005 review, it is right that we take stock of the current situation, consider how society has moved on since that time and ask whether the current arrangements are sufficient to respond to these changing circumstances. In addition, it is important to consider the current arrangements in light of the recent recommendations from the independent research report on the Community Impact of Public Processions (carried out by the University of Stirling and published in February 2015) and ensure that the recommendations in the report are being taken forward. The report noted the continued contentious nature of some marches and the need to ensure that we are achieving the right balance between rights and responsibilities. The report also noted some concern around static demonstrations.

In addition, the reports by the Advisory Group on Tackling Sectarianism in Scotland (published December 2013 and May 2015 respectively) made a number of recommendations in relation to marches and parades and Dr Rosie, who was himself a member of the Advisory Group, will also be looking at the progress that is being made with these. In particular, Dr Rosie hopes to scope out the current processes and procedures in place for arranging and facilitating marches, parades and static demonstrations in Scotland from all perspectives – those seeking to march, parade or demonstrate and those with statutory duties to facilitate and police such events – to identify good practice and potential areas for improvement, to ensure these are fit for purpose.

The reports referred to in the e-mail can be found at:

- The Review of Marches and Parades in Scotland, 2005: <http://www.gov.scot/Publications/2005/01/20583/50696>
- Community Impact of Public Processions, 2015: <http://www.gov.scot/Publications/2015/02/3769>
- Interim report of the Advisory Group on Tackling Sectarianism in Scotland, 2013: <http://www.gov.scot/Publications/2013/12/6197>
- Final report of the Advisory Group on Tackling Sectarianism in Scotland, 2015: <http://www.gov.scot/Publications/2015/05/4296>

I will be providing support to Dr Rosie for this work and he has asked me to contact you to find out whether you would be happy to meet with him for an informal discussion around these issues and to feed in your views. If so, we can identify a suitable date, time and location for the meeting to take place. Please feel free to contact me using the details below to arrange a meeting with Dr Rosie or if you have any further questions.



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