

To: Regulatory Functions Board

On: 3 June 2021

Report by: Director of Finance and Resources

Heading: Public Procession Conditions: Proposals for Consultation

1. Summary

1.1 The purpose of this report is to seek the Board's approval to consult on a proposal to change the standard conditions imposed on public processions which relate to music being played outside places of worship.

2. Recommendations

2.1 Approve the terms of the proposed condition, as set out in Paragraph 4.8 of the report, in relation to prohibiting music being played outside a place of worship, as suitable for the purposes of consultation;

2.2 Approve the consultation questions at Appendix 2;

2.3 Instruct officers to undertake a public consultation on the proposed condition, to include all persons who have, in the past 2 years, notified Renfrewshire Council of their intention to hold a public procession, all statutory and non-statutory consultees who are notified of public processions within Renfrewshire and such other persons or groups as officers consider appropriate; and to report the responses to the consultation to the Board thereafter.

3. **Background**

- 3.1 The Civic Government (Scotland) Act 1982 requires a person proposing to hold a public procession to notify in writing the local authority for the area where the procession is intended. A local authority does not grant permission for a public procession to take place. Instead, it can prohibit the holding of a public procession or impose conditions. In deciding whether to exercise this power, a local authority must have regard to a number of factors including public safety, public order, likelihood of damage to property and the likelihood of an unacceptable disruption to the life of the community.
- 3.2 Currently, the Council imposes a number of standard conditions in relation to all public processions. These standard conditions can be found in Appendix 1. Standard Condition 7 is intended to prevent music being played outside places of worship while a service is in progress. However, following complaints received questions have arisen in relation to the interpretation and application of this condition. As such, officers are of the view that it would be desirable to replace it with a condition which makes the requirements of the Council clearer.
- 3.3 Officers have considered in this regard the terms of a report published in 2016 by Dr. Michael Rosie of the University of Edinburgh, titled Independent Report on Marches, Parades and Static Demonstrations in Scotland. This report examined some of the approaches taken by various local authorities and is published at:

<https://www.gov.scot/publications/independent-report-marches-parades-static-demonstrations-scotland/>

The Scottish Government commissioned an updated report from Dr. Rosie in 2019. The further report, which was published in June 2020, is available at:

<https://www.gov.scot/publications/review-2016-independent-report-marches-parades-static-demonstrations-scotland/pages/4/>

4. **Proposed change to condition 7**

- 4.1 Currently Standard Condition 7 states:

The band or bands taking part shall cease to play when approaching and passing places of worship while services are in progress.

As stated at Paragraph 3.2 above, questions have arisen in relation to the interpretation and application of this condition. The purpose of the condition is to ensure that music at public processions is not played outside places of worship while services are in progress. However, it is currently unclear, in particular, what is meant by “approaching”. It is unclear whether an entire procession must pass a place of worship before the playing of instruments can resume. Some organisers also take the view that striking a drum beat while outside a place of worship is not prohibited.

- 4.2 The carrying on of public processions potentially engages rights protected under the European Convention of Human Rights including the right of freedom of expression and the right of freedom of assembly and association. However, the right to hold a religious belief is also protected under the European Convention of Human Rights. Under this right, worshippers should be allowed to partake in their worship peacefully. It is considered that preventing the playing of musical instruments at a public procession outside a place of worship strikes a fair balance between the competing rights of the worshippers and those participating in the public procession. It is also considered that an appropriate condition can be justified having regard to considerations of public order and prevention of the disruption of the life of the community.
- 4.3 Officers have reviewed the conditions and codes of conduct put in place by neighbouring authorities. South Lanarkshire Council, Inverclyde Council, South Ayrshire Council and North Lanarkshire Council all have a condition similar to Renfrewshire Council's current condition.
- 4.4 Glasgow City Council's requirement is that:
"All Processions will be required to cease playing music when approaching and passing places of worship (which have been established by the Council as being in regular use for the purpose of religious observance), irrespective of whether or not a service is in progress, as instructed by the Police. No music shall be played within a zone 100 metres either side of a place of worship".
- 4.5 North Ayrshire Council's requirement is that:
"No musical instruments or loudspeakers can be used within 100 metres of any place of worship (this condition applies whether or not a religious service or ceremony is in progress)."
- 4.6 It is the view of officers that Standard Condition 7 should be amended to remove any ambiguity as to what is permitted. The Board may consider a distance of 100 metres appropriate to strike a fair balance between the rights of worshippers and the rights of persons participating in a public procession, similar to Glasgow City Council and North Ayrshire Council. Alternatively, the Board may wish to consider a lesser distance as appropriate.
- 4.7 It is the view of officers that the Board may not wish to include in any new proposed condition the reference to instructions from the police, as set out in Glasgow's current condition. While a condition imposed on this basis could allow for flexibility on the day of a procession, it would be likely to place an onus on police officers to identify places of worship and could result in inconsistencies of approach.
- 4.8 It is recommended that the Board agree the terms of the following proposed condition for the purposes of public consultation as set out below.

No musical instruments can be used within 100 metres of any place of worship (this condition applies whether or not a religious service or ceremony is in progress). Without prejudice to the generality of this condition, the use of musical instruments will be taken to include, in particular, the striking of a drum or other percussion instrument.

5. Next Steps

- 5.1 Should the Board agree that the proposed condition be put to consultation, officers will commence a consultation exercise, to include all persons who have, in the past 2 years, notified Renfrewshire Council of their intention to hold a public procession, all persons who are on the Council's "Opt In" List (which entitles people listed on it to be notified of public processions), all other statutory and non-statutory consultees and such other persons or groups as officers consider appropriate; and to report the responses to the consultation to the Board thereafter. It is anticipated that the consultation would be for a period of 4 weeks.
- 5.2 Following the close of any consultation agreed by the Board, officers will bring a further report to the Board, detailing the responses received to allow the Board to consider what changes to the condition may be required.

Implications of the Report

1. **Financial** – Nil. The recommendations in the report are to agree at this stage a proposal for the purposes of public consultation.
2. **HR & Organisational Development** - Nil
3. **Community/Council Planning** –
 - Our Renfrewshire is safe – having suitable conditions for public processions in place will contribute to public order and safety.
 - Building strong, safe and resilient communities – having suitable conditions for public processions in place will minimise disruption to communities
 - Tackling inequality, ensuring opportunities for all – the proposed condition is aimed at striking a fair balance of competing rights of different sections of the community.
4. **Legal** – Section 63 of the Civic Government (Scotland) Act 1982 allows the imposition of conditions on public processions in certain circumstances.
5. **Property/Assets** – Nil
6. **Information Technology** - Nil
7. **Equality & Human Rights** -The Recommendations contained within this report have been assessed in relation to their impact on equalities

and human rights. Whilst the proposed condition to be consulted upon could, if introduced by way of a policy following consultation, potentially engage individuals' human rights, the recommendation at this stage is restricted to approving a draft condition for the purpose of consultation. It is considered that the proposed condition strikes a fair balance between the competing rights of worshippers and those participating in public processions as detailed further in sections 4.2 and 4.6 of this report.

If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety** - Nil
9. **Procurement** - Nil
10. **Risk** – Nil. At this time, the recommendations are restricted to agreeing a consultation on possible changes to the Council's conditions.
11. **Privacy Impact** – Nil
12. **Cosla Policy Position** – Nil
13. **Climate Risk** – Nil

List of Background Papers

- None

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Current Condition

STANDARD CONDITIONS REGARDING PARADES/PROCESSIONS

1. 28 days intimation shall be given to the Police of the intention to hold a procession
2. Sufficient stewards and marshals shall be present to ensure that participants comply with directions.
3. Stewards and marshals shall be easily identifiable.
4. The organiser shall identify himself to the Police Officer in charge at the commencement of the procession
5. The processionists, including marshals, shall not march more than four abreast and shall keep to the near or left hand side of the street except one-way street where they will keep to the right hand side
6. The procession shall be split into sections in order to avoid serious dislocation of traffic.
7. The band or bands taking part shall cease to play when approaching and passing places of worship while services are in progress.
8. No halberds or weapons of any description shall be carried.
9. No cause for complaint shall be given
10. No obstruction shall be caused.
11. The instructions of the Police shall be obeyed.
12. The conditions of Section 62 of the Control of Pollution Act 1974 in relation to the use of loudspeakers shall be observed.
13. The terms of the Public Order Act 1936 in relation to the prohibition of the wearing of uniforms signifying association with any political organisations, etc shall be observed.
14. No band shall play before 8.00am or later than 8.00pm
15. Organisers shall assist the Police in ensuring that passage is allowed for traffic and pedestrians.

The organisers shall assist the police in ensuring that these conditions are brought to the notice of persons, bodies and bands participating.

Consultation Questions

APPENDIX 2

1. Do you think condition 7 should remain the same?
2. If yes, please give reasons.
3. Do you think condition 7 should be changed to the proposed new condition?
4. If yes, please give reasons.
5. Do you think different wording should be used for a new condition in relation to bands approaching and passing places of worship?
6. If yes, please give reasons and provide alternative wording that you consider suitable.
7. Do you propose any other changes to the Council's Standard Conditions or current procedures for public processions?
8. If yes, please provide further details of, and reasons, for your proposals.