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## DETERMINATION MADE IN RELATION TO THE NO 9 DISTRICT LOL PARADE NOTIFIED TO TAKE PLACE IN BELFAST ON SATURDAY 10 SEPTEMBER 2005

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### INTRODUCTION

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1. Section 8(1) of the Public Processions (Northern Ireland) Act 1998, provides that:

“The Commission may issue a determination in respect of a proposed public procession imposing on the persons organising or taking part in it such conditions as the Commission considers necessary.”
2. The Commission has noted the details provided on the Form 11/1 submitted on 11 August 2005 concerning the No 9 District LOL parade in Belfast on Saturday 10 September 2005. The Commission has considered the need to issue a determination as outlined above, against the factors described in its Guidelines document.
3. The Commission remains conscious of its previous determinations and, in particular, the breaches by parade participants of the Code of Conduct in connection with previous parades on this route. The Commission has also had special regard to the nature of this parade in the light of the above Act, the Commission's stated principles (as set out in its annual reports), the Statutory Guidelines and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It has also considered and evaluated all representations received and all information assembled. The Commission has subsequently concluded, considering all relevant factors, that the determination, which it now makes, is the most appropriate for this particular parade at this particular time.

### BACKGROUND

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4. The Commission notes the stated purpose of this event is 'Annual Parade to Whiterock Orange Hall'. The Commission further notes that the organiser originally notified the annual Whiterock parade to take place on 25 June 2005

and a determination in respect of that notification was duly made. However, the organiser subsequently withdrew the 11/1 relating to that parade and instead notified an alternative parade which was not contentious. The Commission has heard that this alteration was made to ease tensions in the Greater Shankill area at that time.

5. A protest meeting has been notified by Springfield Residents Action Group, reflecting continuing strained community relations in the area.
6. The Commission has again met people from across the community. In its initial determination in respect of the parade notified to take place on 25 June 2005, the Commission noted that meaningful dialogue between the North and West Belfast Parades and Cultural Forum and the Springfield Residents Action Group had taken place in respect of the parade and its associated issues. The Commission welcomed this dialogue, and commended members of both groups for showing the courage and civic-mindedness to engage in this difficult process.
7. In particular, the Commission recognised the challenges which the Parades Forum met in engaging in dialogue. It further recognises that the Forum remain committed to this dialogue process in the face of significant and sustained pressures. The Commission has been told that the Springfield Residents Action Group's desire is to continue with dialogue aimed at reaching an agreed outcome to this parade. The Commission reiterates that meaningful dialogue offers the only long term solution to this issue.
8. The Commission acknowledges the frustration and hurt felt by those involved with the Forum following the Commission's determination in respect of the parade originally notified to take place on 25 June 2005. However, the Commission considers its determination to have been appropriate in view of the information and evidence presented to it.

9. Having taken account of all the further substantive evidence, information and advice submitted to it, the Commission has again had to make a difficult decision in respect of this parade. The Commission regrets that since it considered the parade in June, there appears to have been no movement in the dialogue process.

## **CONSIDERATION**

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10. The Commission is obliged by statute to have regard to the Guidelines issued under Section 5 of the Public Processions (Northern Ireland) Act 1998 and has done so. The Commission has also been alert to its duties as a public authority under Section 6 of the Human Rights Act 1998. The Commission believes that, from the perspective of the parade organisers, the Convention rights engaged are those protected by Articles 9, and 10 and, in particular, Article 11. None of those rights is absolute.
11. Further, the human rights of other persons, to whom the Commission also owes a legal duty, must be equally considered. Those who live, work, shop, trade and carry on business in the affected locality enjoy rights under Article 8 of the Convention and Article 1 of the First Protocol thereto. In common with Articles 9, 10 and 11, none of these rights is absolute. The Commission has also been mindful to take into account its positive obligations under Article 2 of the Convention. Similarly it has been mindful of the provisions of Article 17 of the Convention.
12. It is not possible for all of those who would claim the benefit of the Human Rights Act 1998 to exercise and enjoy their Convention rights to the fullest extent, where rights are in competition with each other. The Commission, therefore, has had to undertake a balancing exercise, bearing in mind the statutory Guidelines, in an attempt to reach a determination, which is fair and proportionate in all the circumstances. In addition to having regard to the Guidelines the Commission has had regard to the criteria specified in Section 8(6) of the Public Processions (Northern Ireland) Act 1998.

13. In making its determination, the Commission has accepted that there is a right of lawful and peaceful protest vested in those who legitimately object to the notified parade. However, there is neither right nor justification for unlawful or violent protest. The Commission further considers that, in all the circumstances, there is an obligation on representatives and local community and political leaders to use their good offices and/or take reasonable steps as appropriate to prevent violent and/or unlawful protest. This will be to the positive advantage of the local population, as it will reduce the risk of any possible impairment of their rights and freedoms stemming from such protests.
14. In making its decision on the parade, the Commission again considered three principal options in respect of the parade route. These are:
  - allowing the parade in part or in whole to pass through the Workman Avenue gates:
  - prohibiting the parade from the Springfield Road but allowing it to use West Circular Road to reach the Whiterock Orange Hall; and
  - directing the parade from Woodvale Avenue on to the new roadway through the Invest Northern Ireland site (formerly the Mackies complex).
15. The Commission emphasises that any notified parade, not least a large parade like this one, must be conducted in an orderly and peaceful manner.
16. The Commission has also taken into account the possibility that if a large scale policing operation is required the disruption to the local community and the possible infringement of protected Convention rights will increase commensurately.
17. The Commission has had to have regard to the fact that a parade in this location on this date is not a traditional one, occurring as it does at the end of the Summer.

18. Whilst recognising the fundamental importance of the right to freedom of assembly, the Commission finds it necessary to exercise its powers under Section 8 of the Public Processions (Northern Ireland) Act 1998 to place restrictions on the parade.
19. The Commission pursues the legitimate aims laid down in Article 10(2) and 11(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, of seeking to prevent disorder and to protect the rights and freedoms of others.
20. In determining whether the conditions are necessary in a democratic society and proportionate, the Commission has regard to the criteria set down in Section 8(6) of the Public Processions (Northern Ireland) Act 1998 and to its own Guidelines made under Section 5 of the Act and to which under Section 8(5) it shall have regard when making a determination.
21. Having regard to the factors set out above, the Commission considers that the conditions it now imposes are necessary and proportionate to the aim pursued. The conditions are not such as to affect significantly the individual's right to assemble. The Commission believes that the conditions it imposes strike a fair balance between the needs of the community and the rights of the individual, and that the route restriction it imposes is the most balanced of the three options outlined above.

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## DETERMINATION

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The Parades Commission's determination is that the following conditions are placed on the organiser and participants in the parade by No 9 District LOL on Saturday 10 September 2005.

- A. The No. 9 District LOL parade is prohibited from joining the Springfield Road at its junction with Workman Avenue. It shall instead proceed from Workman Avenue to Woodvale Avenue, and turn left from Woodvale Avenue on to the new roadway through the Invest Northern Ireland site (formerly the Mackies complex). The parade shall join the Springfield Road by turning right at the junction of this new roadway with the Springfield Road, and shall resume the remainder of its notified route from that point.
  
- B. Only hymn tunes shall be played on the section of the parade route from the point where the parade turns right on to the Springfield Road from the new roadway through the Invest Northern Ireland site to the junction of the Springfield Road and West Circular Road roundabout.
  
- C. Supporters of the parade are prohibited from the section of the parade route between Woodvale Avenue, and the junction of the Springfield Road and West Circular Road roundabout.
  
- D. There shall be no colour parties of any type, or flags, clothes, instruments, badges or emblems displayed which could be seen as associated with any paramilitary organisation.
  
- E. No banner, instrument or object referring to Brian Robinson shall be displayed in the parade between the point where the parade turns right on to the Springfield Road from the new roadway through the Invest Northern Ireland site, and the junction of Springfield Road and Dunboyne Park.

- F. Only the bands notified on the Form 11/1 shall participate in the parade.
- G. The parade organiser shall ensure that the parade shall begin and disperse promptly.
- H. When the parade is in progress there shall be no undue stoppages or delays. Where practicable, the parade shall stay close to the near side of the road at all times to minimise disruption and to facilitate the passing of vehicular and other traffic.
- I. The organiser shall arrange for the presence of an adequate number of stewards to ensure that all parade participants act in an orderly manner.
- J. The parade organiser shall bring to the attention of stewards the guidance for parade participants contained in Appendices A and B of the Commission's Code of Conduct. For ease of reference, Appendices A and B are attached.
- K. The parade organiser shall ensure that all stewards and participants obey any direction given by the police in relation to this parade. In light of the notified protest meeting having been received, this direction assumes particular importance to promote the safety of all concerned.
- L. The parade organiser shall ensure that these conditions are drawn to the attention of all participants.

Signed: .....  
(On behalf of the Commission)

Date: .....

## **APPENDIX A**

### **Guidance for Anyone Participating in Parades**

#### **A. Behaviour**

All participants in parades should:

- behave with due regard for the rights, traditions and feelings of others in the vicinity;
- refrain from using words or behaviour which could reasonably be perceived as being intentionally sectarian, provocative, threatening, abusive, insulting or lewd;
- obey the lawful directions of parade organisers and stewards at all times, from assembly to dispersal;
- abide by the conditions of this Code of Conduct;
- comply with police directions and in accordance with legislation.

#### **B. Dress**

No paramilitary-style clothing is to be worn at any time during a parade.

#### **C. Parade**

Whenever possible, the parade should be positioned on one side of the carriageway so as to allow for the free flow of traffic, or as otherwise stipulated by police.

#### **D. Route**

Participants should keep to the designated route as directed by the police.

#### **E. Alcohol**

Alcohol should not be consumed immediately prior to, or during a parade. An organiser or steward, who believes a participant to be under the influence of alcohol, should take the necessary measures to remove that person from the parade.

#### **F. Bands and Music**

Each band must clearly display its name. Restrictions on the playing of music will be in accordance with the conditions as set out in Appendix B of this Code. No musical instrument will bear any inscription or mark of a proscribed organisation.

#### **G. Flags etc.**

Flags and other displays often have a legitimate historical significance, but in no circumstances should such items relating to a proscribed organisation be displayed.

#### **H. Stewards**

The names of stewards will have been notified to the police and the Parades Commission at the time of notifying the proposed parade.

Stewards should:

- be properly trained;
- be briefed by the organisers prior to the parade;
- carry proof of their status at all times during the event, and provide this information to police on request;
- be fully aware of their responsibilities and role;
- be highly visible by means of jackets, singlets, armbands, etc.
- not consume alcohol before or during the parade;
- co-operate with the police;
- be prepared to identify to the police any persons in the parade who may be committing any offence against criminal law.

#### **I. Policing**

Organisers of parades must co-operate with the police from the time of submission of the notice of intention to parade until the parade disperses.

#### **J. Dispersal**

When a parade has concluded, all those taking part must disperse immediately. It will be the responsibility of the organisers to ensure compliance with instructions in this regard.

#### **K. Abiding by Conditions**

Organisers must ensure that all participants in any parade have been informed of any conditions imposed. As a general principle, the organiser is responsible for the behaviour of all participants and for ensuring compliance with the Code of Conduct.

## **APPENDIX B**

### **Guidance for Anyone Participating in Parades in the Vicinity of Sensitive Locations**

#### **A. Places of Worship**

Only hymn tunes should be played.

When church services are taking place, no music should be played.

There should be no irreverent behaviour.

Marching should be dignified.

#### **B. War Memorials and Cemeteries**

Only hymn tunes should be played.

Behaviour should be respectful.

Marching should be dignified.

#### **C. Where the Majority Population of the Vicinity are of a Different Tradition, and in Interface Areas**

Behaviour should be respectful.

There should be no excessively loud drumming.

Participants should refrain from conduct, words, music or behaviour which could reasonably be perceived as intentionally sectarian, provocative, threatening, abusive, insulting or lewd.

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