

# STRATEGIC REVIEW OF PARADING IN NORTHERN IRELAND



Views of Key Stakeholders

# STRATEGIC REVIEW OF PARADING IN NORTHERN IRELAND

## Views of Key Stakeholders

Michael Hamilton  
Transitional Justice Institute  
University of Ulster

June 2007



# STRATEGIC REVIEW OF PARADING IN NORTHERN IRELAND

## Views of Key Stakeholders

### Index

	<i>Paragraph nos.</i>	<i>Page nos.</i>
<b>(1) Introduction</b>		
Methodology	1.2	6
Background	1.5	6
Expectations in relation to the Strategic Review	1.8	7
<b>(2) The Significance of Parading to those who Parade</b>		
Statistics and terminology	2.1	12
Loyal Order parades	2.3	12
Band parades	2.12	14
Nationalist and Republican parades	2.17	13
Looking forward	2.19	14
Education and Understanding	2.20	15
Cultural Tourism	2.22	15
Development work and Marshalling training	2.27	16
<b>(3) Reasons for Contention Around Parading</b>		
Statistics and terminology	3.1	20
Local histories	3.4	20
Broader political considerations	3.7	21
The Parades Commission	3.11	21
Non-Dialogue	3.14	22
Parade Routes	3.15	22
Questions of locality & belonging	3.16	23
'Local', 'feeder' or 'bus-stop' parades	3.17	23
Types of parade & conduct related issues	3.18	23
Paramilitary paraphernalia	3.21	24
Music	3.28	25
Frequency of parades	3.29	25
Disruption to the life of the community	3.30	25
Impact on community relations	3.31	26
Impact on the wider community	3.32	26
The social & economic impact of parades	3.33	26
Parades & policing	3.41	28
Policing costs	3.48	29

## (4) Towards a Long-Term Strategy

Principles	4.4	32
Human rights	4.7	33
Dialogue	4.13	34
An equal and shared future?	4.17	34
Responsibilities & event management	4.27	37
Transparency	4.31	38
Procedures		39
Notification	4.35	39
Post-notification filtering / Triggers for further action	4.40	40
Mediation & pre-mediation	4.42	41
Who should represent the protagonists?		41
How should mediation best be facilitated?		41
Incentives to engage?		42
Adjudication & Arbitration	4.51	42
Review	4.56	43
Liability & sanctions	4.57	43
Monitoring	4.60	43
Structures	4.62	44
Mediation & pre-mediation	4.63	44
Arbitration	4.70	45
Role & remit of the Arbitration Body	4.80	47
Methodologies that the Review body might consider	4.85	47

## Appendices:

I	Thematic bibliography	50
II	Parades Commission's 'Common Principles'	52
III	Extract from the OSCE Guidelines on Freedom of Assembly – 'Six Guiding Principles'	53
IV	Background to the Public Processions (NI) Act 1998, issues raised by the Quigley Review, and summary responses to the Quigley Review	54
V	Diagram outlining the pre-parade procedure recommended by the Quigley Review	58

## Endnotes

### Tables:

Table 1: Total Annual Parades in Northern Ireland 1985-1997	8
Table 2: Total Annual Parades in Northern Ireland 1996-1997 – 2004-2005	8
Table 3: Monthly breakdown of notified parades per town/city in 2006	9

## Acknowledgments

Research for this project took place in April and May 2007. In many cases, meetings were facilitated and hosted by members of residents' groups or the Loyal Orders. This level of co-operation has undoubtedly enriched the document. Sincere thanks are therefore due to all those who gave generously of their time and spoke candidly about their experiences of parading. I hope that all parties will be able to see their own views reflected accurately in these pages. It should be emphasized that the views expressed are not necessarily shared by members of the Strategic Review of Parading Body, and responsibility for errors remains with the author.

# 1.

## Introduction



# 1. Introduction

1.1 On Friday 2 February 2007, a Strategic Review of Parading was announced by the (then) Security Minister, Paul Goggins.<sup>1</sup> As the initial stage in the Strategic Review, this research is intended to provide a baseline position document to inform the work of the Review Body. In so far as is possible, it aims to record (rather than filter or comment upon) the views of key stakeholders in relation to:

- expectations in relation to the Strategic Review;
- the significance of parading to those who parade;
- the reasons for contention around parades;
- what principles, procedures and structures might assist in normalising the regulation of parading in Northern Ireland.

## Methodology

1.2 The project draws upon existing research on the parades issue, and provides a summary background to the recommendations of the *Independent Review of Parades and Marches* (the North Review) in 1997, and the *Report of the Review of the Parades Commission and Public Processions (NI) Act 1998* (the Quigley Review) in 2002 (see Appendices IV and V).

1.3 More importantly, however, the research attempts to move beyond already documented views. In setting the tenor for the Strategic Review, the methodology was designed to be as open and inclusive as possible. Given the time constraints (late March – early May 2007), stakeholders were invited to participate in focused discussion groups drawn from key constituencies. It was initially envisaged that targeted discussion sessions would be facilitated for:

- those who parade (unionist/loyalist and nationalist/republican);
- those who live in areas through which parades pass (both areas nominally regarded as unionist/loyalist and as nationalist/republican);
- those with experience of facilitating mediation in relation to parade disputes;
- business, commercial and tourism interests;
- the youth sector.

1.4 Those invited were encouraged to make written submissions or request an individual meeting if they were unable to attend the designated session. Furthermore, the views of other stakeholders outside of these five broad groupings were also sought. Due to a limited response, only one session was held (with six of the Parades Commission's Authorised Officers). Consequently, the research relied upon individual semi-structured interviews with key stakeholders. In total, 66 letters were sent out, 41 separate interviews were held (involving over 100 individuals), 2 telephone interviews were conducted, and 5 written submissions were received. Those interviewed came from different backgrounds, including those with experience of parading (organisers, participants, and those who live or work in areas affected by parades) as well as with church leaders, and those with expertise in mediation, human rights, interface work, community relations and policing.

## Background

1.5 Parades have long provided a vehicle for the public expression of political, cultural and religious loyalties in Northern Ireland. They have also been the focal point for contestation about access to public space and the nature of the Northern Ireland polity. In the mid-1990s, disputes in a number of areas escalated. Following widespread violence associated with the Drumcree parade dispute in Portadown in 1996, an extensive Review process, chaired by Sir Peter North, was tasked with reviewing the arrangements then in place for handling public processions, open-air public meetings and associated public order issues in Northern Ireland.

1.6 As a result of the *North Report*,<sup>2</sup> the Parades Commission was established in March 1997 with a limited remit of mediation, conciliation and education. It was not until February 1998 that the *Public Processions (NI) Act* was enacted, placing the Commission on a statutory footing and giving to it the adjudicatory powers recommended by the North review team. Since the Commission's establishment, there have been five official reviews of its operation (between November 1999 and March 2006).<sup>3</sup> These

have focused on both its adjudicatory role, and its duty to promote and facilitate mediation as a means of resolving disputes concerning public processions.

- 1.7 It is important to emphasize from the outset that this Strategic Review is not a review of the Parades Commission. Ten years after the North Review, however, it is fitting to revisit some of the broader issues that led to its institution. In the intervening period, there have been many important political developments at both micro- and macro- levels. In 2006, for the first time in over thirty years, the Army was not deployed on the Twelfth of July.<sup>4</sup> Furthermore, the return of devolved government in Northern Ireland may well pave the way to greater political generosity at a local level, and thus open new opportunities for those working to resolve parade disputes. As one interviewee noted, ‘the current political circumstances are propitious for building greater understanding of parading issues.’<sup>5</sup>

## Expectations of key stakeholders in relation to the Strategic Review

- 1.8 There was broad support for the Strategic Review amongst those interviewed. All interviewees spoke of their commitment to finding durable solutions to local parading issues. While many thought that the Review Body should affirm the value of having a civic body to regulate freedom of assembly, many also emphasized the need to normalise, in so far as possible, arrangements for regulating parades in Northern Ireland.
- 1.9 It was suggested that the Review could begin a wider discussion about:
- how protestant/unionist/loyalist communities might best acknowledge and address the widely held view in catholic/nationalist/republican communities that many parades are anti-catholic, sectarian and offensive, and
  - how catholic/nationalist/republican communities could best recognise the right of protestant/unionist/loyalist communities to express and celebrate their culture as they define it.

- 1.10 It was further argued that the Strategic Review should ask hard questions of each constituency – for example, do nationalists/republicans want to abolish the parading tradition? And, are unionists/loyalists happy about the way in which their parading tradition is perceived – the offence it causes, and costs it entails? The Review should look beyond ‘Orange and Green’ parades and protests (noting, for example, the Gay Pride parade in Belfast, and classic and vintage vehicle rallies), and should also consult with others who have a clear interest in the future of parading in Northern Ireland including young people, and business and tourism interests.

- 1.11 A number of concerns, however, were expressed about the Strategic Review, and it is appropriate to summarise these at the outset:

- One concern related to the way in which members of the Review Body were selected for appointment. This led to a questioning of the Body’s underlying objective – specifically, whether this was to sign-off on a ‘global solution’ on parading.<sup>6</sup> It was urged that the Review Body should instead concentrate on designing principles, procedures, and structures (in that order) which might assist those working at grassroots level in reaching agreed local outcomes. Thus, while the Review Body’s role could be ‘definitive’, it could never itself ‘wrap up the parades problem.’ To attempt this would both undervalue and undermine the work that continues to be done on the ground. As one interviewee argued, the Review should aim to support incremental changes that have already begun.<sup>7</sup>
- A common perception was that the Review was established to ‘get the Orange Order off the hook’.<sup>8</sup> Some who held this view further argued that it unjustly provided a means for the Loyal Institutions to sidestep the reality that ‘where people have talked, dialogue has been shown to work.’
- There was a concern that the Strategic Review could reinvigorate parade disputes in areas where accepted solutions are now just beginning to bed down. It was suggested that it was therefore the wrong time to tinker with existing processes. This being the sixth review of parading related issues in



ten years, there was a degree of ‘review fatigue’ amongst many interviewees. Some argued against change for the sake of change, stating: ‘If it ain’t broke, don’t fix it.’<sup>9</sup>

- There were also worries that the Review could undermine initiatives begun by the Parades Commission (and others) during the forthcoming summer. In the words of one member of the Loyal Orders, ‘this Review has created uncertainty.’<sup>10</sup>
- It was argued that the Strategic Review should not seek to impose a timetable on when the Parades Commission might be wound up. Those expressing this view urged the Review Body to understand its role as building on the successes of the current model. The Review could usefully look at (a) developing principles for the future of parading around symbols, flags, music and uniforms, (b) what mechanisms might *some time in the future* be introduced, and (c) how the various functions of the Commission might gradually be transferred to other actors in order to normalise the regulation of freedom of peaceful assembly in Northern Ireland.
- Others expressed a desire to see fundamental reforms introduced, and felt that the remit of the Review Body may not be sufficiently broad to cover assemblies and other events that take place in public spaces besides public processions. Given that, in their view, this was one of the cardinal failures of the North Review Team, the Strategic Review – and its recommendations – should encompass all categories of ‘processions’, ‘parades’, ‘marches’, ‘demonstrations’ and ‘events’ on the public highway, rather than narrowly focusing on the activities of the Loyal Institutions. One written submission expressed the hope that the Review ‘be realistic, fair and provide a solution to the unnecessary aggression surrounding parades in a shared future.’<sup>11</sup>

**TABLE 1** Total Annual Parades in Northern Ireland 1985-1997<sup>12</sup>

	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Legal parades (unionist/loyalist)	1897	1731	1863	1865	2099	2467	2183	2498	2411	2520	2581	2397	2649
Legal parades (nationalist/republican)	223	219	249	190	218	246	196	246	251	272	302	218	233
Illegal parades (total)	-	-	96	8	2	1	4	-	-	-	24 <sup>(E)</sup>	19	14
No. of parades re-routed + other conditions imposed	15+7	9	11	10	14	10	14	16 <sup>(A)</sup>	12 <sup>(B)</sup>	29 <sup>(D)</sup>	20+2	25+7	20+20
No. of parades at which disorder occurred	-	-	18	21	5	1	1	1	1 <sup>(C)</sup>	-	13 <sup>(F)</sup>	15	6
No. of parades banned	2	1	-	-	-	-	-	-	-	-	-	- <sup>(G)</sup>	-

**TABLE 2** Total Annual Parades in Northern Ireland 1996-97 – 2006-07<sup>13</sup>

Year	96-97*	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06*	06-07*
Total no. of parades	2896*	3211	3403	3440	3301	3280	c.3149	3342	2970*	3245*
Total no. considered sensitive/contentious	-	203	197	235	220	191	231	229	-	-
% of total no. of parades considered sensitive/contentious	-	6.3	5.7	6.8	6.6	5.8	c.7.3	6.9	-	-
Total no. of parades with route restrictions	21*	119	151	130	130	120	136	31*	42*	38*
Total no. of parades restricted	41*	132	217	175	152	137	162	158	141*	133*

Figures drawn primarily from Parades Commission Annual Reports. However, figures marked \* are drawn from police sources.

Key:

no. of 'sensitive' parades ( )

no. at which a related protest was notified [ ]

no. upon which determinations issued < >

**TABLE 3** Monthly breakdown of notified parades per town/city 2006

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
Antrim	0	0	2	4	3	4	8	8	4	1	3	1	38
Armagh	0	0	1	4	2	3	8(1)<1>	7(1)<1>	0	1	1	0	27(2)<2>
Aughnacloy	0	1	0	0	1	0	5	6(1)	1	0	0	0	14(1)
Ballycastle	0	0	0	0	1	1	5(1)<1>	3(1)	0	1	1	0	12(2)<1>
Ballymena	0	0	2	10	3(1)	10(2)<1>	25(6)	16(9)<2>	4(1)<1>	1	3	0	74(19)<4>
Ballymoney	0	0	1	3	2	6	13	15	4	1	5	2	52
Ballyninch	0	0	2	4	2	3(1)	8	3	3	0	1	0	26(1)
Banbridge	0	0	0	0	6	1	9	4	3	0	2	2	27
Bangor	0	0	5	7	9	3	17	7	7	3	4	2	64
Belfast	3	9(1)(1)<1>	15(1)	7(7)<5>	39(3)(2)<1>	58(8)(3)<2>	104(17)(5)<10>	73(14)<5>	20(1)<1>	13(1)	29(1)<17>	15(4)<1>	449(58)(11)<45>
Bellaghy	0	0	1	1	2(1)<1>	2(1)<1>	3(3)<2>	2(2)<2>	1	1(1)	0	0	13(8)<7>
Bushmills	0	0	0	3	0	1	4	4	0	0	1	0	13
Carnlough	0	0	1	0	1	2	3	4	3	0	0	0	14
Carrickfergus	0	0	2	7	4	11	12	12	2	2	1	0	53
Castledawson	0	0	1	0	0	1	6	1(1)(1)<1>	0	0	1	0	10(1)(1)<1>
Castlederg	0	0	1	1(1)<1>	1	2	15(8)<4>	5(4)<3>	1(1)<1>	0	1	3(3)<2>	30(17)<11>
Castlewellan	0	0	0	2	3	1	2(1)(1)<1>	2(1)<1>	2	0	0	0	12(2)(1)<2>
Coalisland	0	0	0	2	0	2	2	0	0	0	0	0	6
Coleraine	0	0	1	3	7	11	17	9	2	3	3	1	57
Cookstown	0	0	4	3	2	11	21	15	5	1	3	2	67
Crossgar	0	0	0	2	2	0	3	3	0	0	0	0	10
Crumlin	0	0	1	0	0	2	6	4	1	1(1)<1>	1	0	16(1)<1>
Downpatrick	0	0	4	3	1	3	5	3(1)<1>	1	0	1	0	21(1)<1>
Dromore	0	0	2	2	3	4	8	3	1	0	5	0	28
Dungannon	0	0	3	1	5	5	9	7	2	3	3	1	39
Dunloy	0	2	0	1	1(1)<1>	0	1(1)(1)<1>	2(2)<2>	1(1)<1>	1(1)<1>	0	0	9(6)(1)<6>
Enniskillen	0	0	2	4	4	7	9	8	7(2)	2	3	4	50(2)
Garvagh	0	0	1	1	1	1	9	4	1	0	3	1	22
Glengormley	0	0	0	1	1	6(1)	4	2	3	1	2	0	20(1)
Hillsborough	0	0	0	0	1	4	2	5	3	1	1	0	17
Hilltown	0	0	0	1	0	0	1	0	0	0	0	0	2
Holywood	0	0	1	0	2	4	5	1	0	0	3	0	16
Keady	0	0	0	0	1	3	6(2)<2>	3(1)<1>	1	0	0	0	14(3)<3>

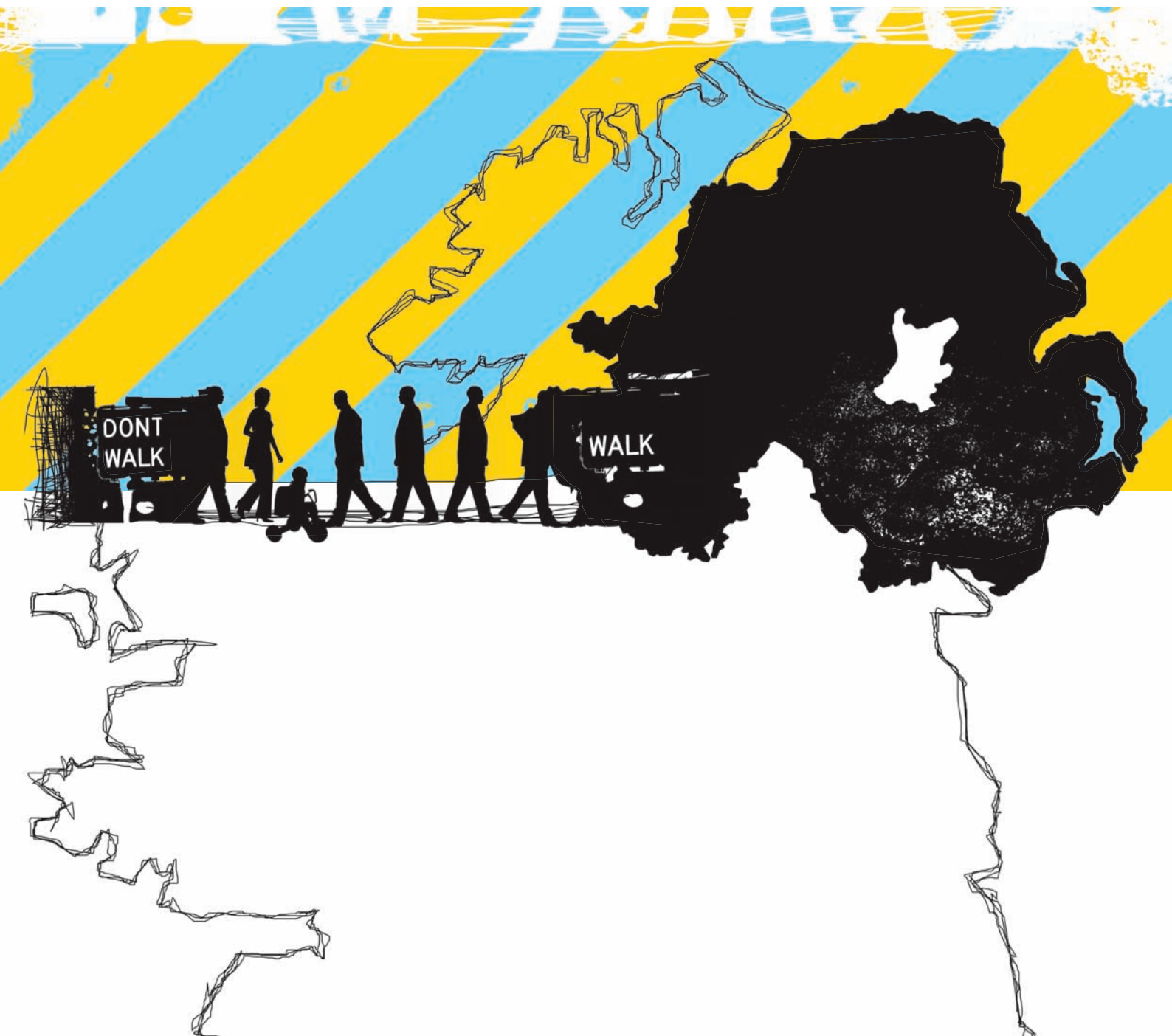
Key:  
 no. of 'sensitive' parades ( )  
 no. at which a related protest was notified ( )  
 no. upon which determinations issued < >

TABLE 3 (continued)

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
Kilkeel	0	0	3(3)<3>	1	3	5	8	10(5)<3>	0	0	2	0	32(8)<6>
Larne	1	1	3	2	8	8	17	5	1	6	5	0	57
Limavady	0	0	2	0	5	15	11	9(1)	2	3	2	2(2)	51(3)
Lisburn	0	0	1	9	12	11	20	27	4	4	5	1	94
Linasklea	0	1	1	1	0	4	3	2	0	0	2	0	14
London/Derry	1	0	5	2	8	4	11	12	5	3	3	5	59
Loughgall	0	0	0	1	0	4	5	3	1	0	1	0	15
Lurgan	0	0	1	6(1)(1)<1>	6(2)<2>	6(1)<1>	10(4)<4>	7(2)<2>	3	1	2	1	43(10)(1)<10>
Maghera	0	0	1(1)	3(1)	0	3	7(3)(1)<3>	8(3)<2>	1	1	0	0	24(8)(1)<5>
Magherafelt	0	0	2	2	4	3	17(1)	7	2	0	2	0	39(1)
Markethill	0	0	0	1	5	2	11	3	1	0	1	0	24
Mountfield	0	0	0	0	0	1(1)<1>	0	0	0	0	0	0	1(1)<1>
May	0	0	0	0	0	1	4	3	0	1	2	0	11
Newcastle	0	0	0	2(1)<1>	0	1	3	3	1(1)<1>	2	0	0	12(2)<2>
Newry	0	0	2	5(1)	3	8	12(1)	5(2)<2>	3	2	4	2	46(4)<2>
Newtownbutler	0	0	0	0	0	1	3(2)<2>	2(2)<2>	1	0	0	0	7(4)<4>
Newtownsteewart	0	0	0	1	1(1)	1	7(2)	2	0	1	1	0	14(3)
Omagh	0	1	1	3	1	6	9	8	3	4	1	0	37
Pomeroy	0	0	1	1	0	1	4(2)<2>	2(2)<1>	0	0	0	1	10(4)<3>
Portadown	5(5)<5>	4(4)<4>	7(4)<4>	9(5)<5>	11(5)<5>	13(4)<4>	16(7)<7>	9(4)<4>	8(6)<6>	9(5)<4>	7(4)<4>	9(6)<5>	107(59)<57>
Randalstown	0	0	2	2	2	5	13	5	1	1	3	0	34
Rasharkin	0	0	4	1	0	1	7(4)(1)	5(4)	0	0	0	0	18(8)(1)
Rathfriland	0	0	0	0	2	5	6	1	2	0	1	0	17
Richhill	0	0	0	1	1	0	16	3	0	0	2	0	23
Rosslea	0	0	0	0	0	0	1	1(1)<1>	0	0	0	0	2(1)<1>
Stoneyford	0	0	0	0	0	1	3	0	1	0	2	0	7
Strabane	0	1(1)<1>	2	0	1(1)	9(1)	4(3)(1)<1>	5(1)	1	1	3(1)	0	27(8)(1)<2>
Suffolk	0	0	0	0	0	2(1)<1>	2	0	0	1	0	0	5(1)<1>
Tandragee	0	0	0	2	3	1	12	1	0	1	1	0	21
Warrenpoint	0	0	0	1	1	1	3	9	0	0	0	0	15
Whitericity	0	0	0	0	0	0	1	1	0	0	1	0	3

# 2.

## The Significance of Parading to those who Parade



## 2. The Significance of Parading to those who Parade

### Statistics and Terminology

- 2.1 Of the 3342 parades in 2004-05, 2525 (76%) were classified as 'loyalist', and 195 (6%) were nationalist (see Table 2 above). The remaining 621 were categorised as 'other'. Parading clearly, therefore, has much deeper significance for sections of the protestant/unionist/loyalist community than for the catholic/nationalist/republican community.<sup>14</sup> It should be noted that the breakdown of statistics in Table 3 does not distinguish between different types of procession. It thus includes everything from charity fundraising walks (and bed pushes) to horse and pony drives, classic and vintage vehicle rallies, and Ulster jazz events. It is clear from Table 3 that the number of processions reaches a peak in most areas during the month of July, and also that processions are much more frequent in some towns and cities than in others. Outside Belfast (in which 449 processions were notified in 2006), Portadown (107)<sup>15</sup> and Lisburn (94), the three towns which hosted the greatest number of public processions in 2006 were (respectively) Ballymena (74), Cookstown (67) and Bangor (64). That said, Table 3 does not present an exhaustive list of the towns/cities in which processions take place, but merely a selection of 64 towns/cities including most of those where processions have, in the past, been regarded as contentious.
- 2.2 This preliminary report uses the terms 'parade' and 'procession' interchangeably. It uses them generically to refer to all types of public event which move from one location to another. Nonetheless, it will be important for the Review Body to consider the terminology adopted in classifying particular types of event. It was argued by some members of the Loyal Orders that the words 'parading' and 'parades' do not reflect the dignity and significance which they accord to their processions as a fundamental demonstration of their faith and beliefs. It was suggested that the word 'parade' best applies to the activities of bands, 'march' best describes military and similar events, and 'demonstration' suggests protest events by campaigners on issues of political or social importance.<sup>16</sup> Adopting 'parade' as a catch-all term potentially masks the need for discrete consideration of each category. Others though spoke of their right to demonstrate – 'not in the sense of opposing something, but demonstrating your commitment to civil and religious liberties.'<sup>17</sup>

### Loyal Order Parades

- 2.3 The term 'Loyal Orders' refers principally to the Orange Order, Royal Black Preceptory, Independent Orange Order, and the Apprentice Boys of Derry. Loyalist/unionist parades can be broadly divided into loyal order parades (including church parades) and band parades. Key dates in the parading calendar include:<sup>18</sup>
- Amalgamated Committee of Apprentice Boys Parade (Easter Monday);
  - Annual Junior Orange parade (end of May);
  - Mini-Twelfth parades (June and early July);
  - Battle of the Somme anniversary parade (1 July);
  - Battle of the Boyne anniversary church services (Sunday before 12th July);
  - Battle of the Boyne commemorations (12th July);
  - Royal Black Institution parades at Scarva and Bangor (13th July);
  - Apprentice Boys Relief of Derry parade (Saturday nearest 12th August);
  - Royal Black Preceptory county parades (last Saturday in August);
  - Apprentice Boys, Lundy's Day/Shutting of the Gates parade (Saturday nearest 18 December).
- 2.4 The significance of wearing a Sash was described by one interviewee as having three elements – (1) historical (commemorating King William's victory), (2) a symbol of the British Crown, and (3) a sign of the reformed faith. It was also emphasized that the focal point for the vast majority of Loyal Order parades (and all RBP parades) is a church service.<sup>19</sup> In the words of one Orangeman:

We have two types of parades. There are the cultural parades which the Twelfth of July would fall into, albeit that at every Twelfth, part of the demonstration is a religious service in the field. But because there are banners on display and bands playing various types of music it's probably seen as more a cultural expression of our history. But by far, the majority of parades that the Institution has as a whole, and certainly [this] District has, are parades going to and from church. We have five parades in the year – one of them is the Twelfth of July and the rest of them are all to church services ... So there are definitely two aspects – the cultural and the religious. But the two are linked – obviously our faith is also part of our history and tradition.<sup>20</sup>

- 2.5 For the Apprentice Boys of Derry, parading is primarily to commemorate the Siege of Derry, 1688-89 – ‘the first thing that the citizens did when the city was relieved was to parade around the walls.’<sup>21</sup> The August parade is therefore commemorating a military siege, and the (approximately) 10,000 people killed during that siege.<sup>22</sup> It was stated by one interviewee that only 200 people were killed in fighting – the remainder died as a consequence of starvation.<sup>23</sup>
- 2.6 All the Loyal Orders emphasized the traditional nature of their events. Indeed, some in the Loyal Orders argued that new parades should be treated less sympathetically than ‘traditional parades’, particularly where the majority of inhabitants in an area are from ‘the other community’. An example was given of Belfast City Cemetery, where there are a number of graves of significance to the Orange Institution, but no parade to the Cemetery has been sought.<sup>24</sup> Others argued that merely because an event was traditional was not reason to afford it greater protection – not only are traditions reinvented over time, but they often simply reflect and reproduce existing (or historical) relations of power and dominance.<sup>25</sup>
- 2.7 It was argued that the very act of parading implicitly affords recognition to significant sections of the protestant /unionist/loyalist community, and that this serves a positive societal role. A number of interviewees recognised the importance of bands and other parading organisations within (Protestant) youth culture – ‘there are many young Protestants for whom their band provides a real sense of self-esteem, which would otherwise be absent.’<sup>26</sup> Another interviewee commented ‘It makes me feel that I am something and somebody’.<sup>27</sup> It was argued that these young people have for many years slipped through the net in terms of policy development and funding.
- 2.8 In relation to recruitment, it was suggested that young men often join the Orange Order because ‘they want to stand up and be counted in a respectable way’.<sup>28</sup> In the Greater Belfast area, some members of the Orange Order perceived the organization to be in competition with paramilitary groups for new members. On this basis, they viewed the Order as being ‘a bulwark against paramilitarism.’<sup>29</sup> Notwithstanding, many in the Loyal Orders also recognized the work that others are doing within and alongside paramilitary groups to improve unionist/loyalist communities and to reduce explicit paramilitary influences and displays in parades.
- 2.9 In rural areas, the competition for membership was described as being more between the Loyal Orders and bands. It was stated that the number of rural lodges is slowly decreasing while the number of bands is increasing. Men will sometimes join the Orange Order whenever they leave the band (one night a month at lodge meetings being preferable to weekly band rehearsals).<sup>30</sup>
- 2.10 Societal benefits claimed by the Loyal Orders include ‘the charitable nature of the Institution and its fund-raising efforts in recent times.’<sup>31</sup> A recent example of this was a donation of £85,000, raised by members of the Royal Black Institution during the past year, to the Open Doors Ministry UK (its nominated charity for 2006) for work in Southern Sudan. The Royal Black Institution stated that it had donated £230,000 to charity in the past four years.
- 2.11 It was observed by a number of interviewees that, while many Belfast Orange lodges once had their own band, this has now changed and very few lodges have their own band (although in rural areas there are still a number of ‘lodge bands’). Some expressed a feeling that those outside the Loyal Institutions do not understand the relationship between Loyal Orders and bands, and thus to not sufficiently distinguish between their activities.<sup>32</sup> Members of the Loyal Orders stated that the Orders will invite, and enter into a contract with, particular bands for Loyal Order parades, but that they have no jurisdiction or influence over band parades or competitions. Indeed, many members of the Loyal Orders voiced disquiet about the activities (particularly drunkenness) that often seem to accompany band parades.<sup>33</sup> A countervailing view expressed was that the Loyal Orders sometimes use band parades as a scapegoat.

## Band Parades

**2.12** A study in 2005 by Jackie Witherow (Institute of Irish Studies, Queen's University, Belfast), counted 633 Protestant bands, 54 Catholic bands and 10 Non-denominational bands in Northern Ireland. These figures were estimated to have since increased. The bands are variously represented by the following associations:

- Flute Band League
- Northern Ireland branch of the Royal Scottish Pipe Bands Association
- North of Ireland Bands Association
- Ulster Bands Association
- 36th Regimental Bands Association

**2.13** One submission stated that bands perform a social function, often providing an opportunity to socialise safely with likeminded people: 'Bands are responsible for the formation of life long friendships and relationships not only within the band but with members of other bands.' Band members described parading as their 'hobby.' Bands were also suggested to be 'the largest youth club that meets at regular intervals in Great Britain.' The Ulster Bands Association, for example, noted that the vast majority of musicians within its organisation are currently 'under the age of 25 with a significant percentage under the age of 18.'<sup>34</sup>

**2.14** It was also emphasized that significant costs are involved. Individual uniforms can cost approximately £350-£400, a hired coach for a night costs £350, instruments for a band of 40-50 people might total £8000, and in addition, £100 per month might be spent on premises in which to rehearse.<sup>35</sup>

**2.15** Interviewees also explained that bands too have a history of charitable work. In 2006, for example, the Ulster Bands Association produced a double-CD of member bands, sold at £10 with proceeds given to the Northern Ireland Children Cancer Care Fund.<sup>36</sup>

**2.16** Given that band competitions are judged on the basis of musical ability, marching ability, style and appearance, and entertainment, one interviewee expressed deep frustration that 'as soon as you put on

a band uniform you're perceived as a drunken bigot.' It was felt that funders (such as local councils) are often reluctant to support band development schemes because of a fear that doing so would compromise their independence or reputation.<sup>37</sup>

## Nationalist and Republican Parades

**2.17** The main parading dates for nationalists/republicans include:

- Bloody Sunday (30 January 1972);
- Hungerstrike commemorations (early May);
- Easter Rising parades (some organised by Sinn Fein and some by National Graves' Associations);
- Internment anniversary (9 August 1971);
- Other nationalist/republican parades take place on St Patrick's day (17 March) and our Lady's Day (15 August);
- There are also a number of commemorative parades held by republicans (for example to remember the IRA men killed in Loughgall, 8 May 1987).<sup>38</sup>

**2.18** Several interviewees suggested that the tradition of Ancient Order of Hibernian parades is in decline.<sup>39</sup> While some interviewees argued that there may be an increase in Republican commemorative parades,<sup>40</sup> others from within republicanism said that a reduction in the number of such parades was likely.<sup>41</sup> In some areas, there have been new parades by dissident republicans. Some viewed this as simply 'about establishing a bit of a presence'.<sup>42</sup> Another interviewee pointed to the 'diversionary' role played by these bands in preventing nationalist/republican young people from being caught up in interface violence. It was stated that within mainstream republicanism, work is taking place on the ground with republican bands to make them less militaristic.<sup>43</sup>

## Looking forward

**2.19** Interviewees identified a number of different strategies aimed at transforming and promoting parading culture. These included educational initiatives to enhance understanding of parading cultures, the marketing of parades as a tourist attraction (including the design of new emblems), and supporting band development schemes. This section provides some specific examples of work currently being undertaken and suggestions for future development.

## Education and Understanding

**2.20** A number of interviewees argued that there is a need to increase understanding of the historical roots and meanings of parading *amongst* those who parade.<sup>44</sup> Such knowledge and confidence building would assist in removing the fears that can prevent positive engagement with others. One interviewee urged the rediscovery of the ‘the notion of being engaged with the end of the Wars of Religion – there’s almost no understanding of the way in which society was changing at the time those formative events took place – there’s no understanding of it, so there’s no ownership of it.’<sup>45</sup>

**2.21** Another suggestion was that understandings of parading culture should become part of the schools curriculum. An example was given of a video essay project at Queen’s University Belfast that has been piloted in schools and is presently part of the University Music Department’s ethnomusicology module. This could potentially be included within ‘Local & Global Citizenship’ or ‘Learning for Life & Work’. While teachers would require training in delivering such a programme, it was hoped that the Council for the Curriculum, Examinations and Assessment (CCEA) might be encouraged to support such work.<sup>46</sup>

## Cultural Tourism

**2.22** Many of those involved in parading organisations argued that their events could potentially yield significant social and economic benefits. Some pointed to developments in London/Derry where the Apprentice Boys’ Maiden City Festival, first held in August 2005, was considered a flagship model in terms of recreating a celebratory mood around a once contested parade (commemorating the Relief of Derry). It was argued that the introduction of the Festival represented a significant milestone in working to improve community relations in the city, and in enhancing understanding of Protestant culture. The festival comprised numerous events during a week-long celebration within the walled part of the city, including exhibitions, shows, talks and evening entertainment. It culminated in the Relief of Derry celebrations which include the traditional Walking of the Walls, the Cenotaph, a Service of Thanksgiving, pageant and the largest Parade of the year for Apprentice Boys from across the UK and overseas. The event had been supported by, amongst others, Derry City Council, the Department of Foreign Affairs (RoI), and the Ulster Scots Agency.<sup>47</sup> However, the Festival was cancelled in 2006 due to funding uncertainties, nor is it running in 2007.

**2.23** Another positive example cited was the North Antrim Twelfth celebrations hosted by Bushmills in 2005. A number of specially designed Penants (hung from lampposts) were used to decorate the town. These included portraits depicting the Queen, the First World War, Cyrus McCormick (inventor of the mechanical reaper), St Patrick, and Dolly Parton. The town flag depicted a St. Patrick’s Cross and a thistle. This initiative was jointly funded by Diversity Challenges and the Ulster Scots Agency.<sup>48</sup>

**2.24** Interviewees also highlighted changes in St. Patrick’s Day events – pointing, for example, to the code of conduct for the parade in Downpatrick, and efforts to make the Belfast St. Patrick’s Day parade more inclusive and a key event within the ‘Celebrate Belfast’ programme.<sup>49</sup> In Armagh too, the St. Patrick’s day festival in 2007 was a cross-community event involving a pageant and, for the first time, a ‘Walk of Witness’ between the two Cathedrals.<sup>50</sup>



**2.25** Some felt that there was a real opportunity to portray parades as a unique tourist attraction. Both the 12 July and the Sham Fight at Scarva on 13 July were highlighted as obvious examples of such events. These were described as two ‘of the biggest festivals in Europe’ and, indeed, unmatched in Northern Ireland in terms of the numbers of people they attract without advertising.<sup>51</sup> There was exasperation that the Northern Ireland Tourist Board had not yet taken advantage of this. A comparison was drawn with events elsewhere which do receive official promotion despite there being occasional violence, drunkenness, or crowd safety issues (such as Notting Hill Carnival in London, or the St Patrick’s Day parade in Dublin). From further afield, one interviewee noted that in Spain local authorities and government organisations provide assistance in the form of advertising parades and forthcoming festivals in tourist brochures.<sup>52</sup>

**2.26** The Tourist Board acknowledged that potential economic benefits do exist. Given that visitors want to gain an understanding of the people, place and culture in countries they visit, ‘cultural tourism’ can be realised as a business opportunity in managing Northern Ireland’s appeal and competitiveness. Aside from ‘Built Heritage and Landscape’, tourists are also interested in ‘Living Culture’ (which might include Gaelic traditions, Orange culture, political tourism etc). Therefore ‘the physical and cultural expression of each community managed sensitively and inclusively, can provide the visitor with an opportunity to engage with a tourist experience unique to Northern Ireland.’ Work, though, remains to be done on ‘product development, information and access.’<sup>53</sup>

## Development work and Marshalling Training

**2.27** ‘Diversity Challenges’ is one organisation which has supported band development work. Bands have been encouraged to apply for *Awards for All* funding which is targeted at not-for-profit groups and is supported by the Arts Council of Northern Ireland.<sup>54</sup> This has been used to fund activities such as band development schemes and training in marshalling, first aid, and child protection. It was suggested that Government could support such development work and also

establish a website containing information on ‘parading traditions’ (with, for example, an interactive map of bands in Northern Ireland).<sup>55</sup>

**2.28** A significant number of marshals have received accredited training through East Tyrone College of Further and Higher Education. The College developed a programme which could be delivered in a range of situations including marshalling public parades and stewarding sporting/public events. The Marshalling training programme was developed to cover four main aspects:

- The law and best practice in relation to marshalling;
- Public and personal safety and risk management;
- Planning and preparation of public parades and gatherings;
- Community relations and conflict management.

**2.29** The course was designed to be delivered over ten hours (e.g. 3-4 evenings, 2 Saturdays etc) and utilizes various learning activities such as discussion, group-work, role-play, simulation, lectures and the use of video. While the college is prepared to offer courses ‘in-house’, the vast majority of courses have been delivered outside of the college. Candidates are expected to develop an understanding of:

1. The legal responsibility of the organisation;
2. Specific roles, functions and personal conduct of marshals;
3. Codes of best practice during events;
4. Working effectively as a team;
5. Applying for permission to march or demonstrate and the role of statutory bodies;
6. Public and personal risk assessments and hazard control;
7. Community related problems including public order and alcohol problems and offences;
8. Preserving the scene of a serious crime and the role of the emergency services;
9. Records, reports, statements and courts;
10. Gathering information and resources;
11. Communication systems, including briefing and presentation procedures, de-briefing and post event/incident evaluation;
12. Crisis avoidance and contingency planning;

13. Public relations, personal and organisational image;
14. Identifying potential causes of conflict and strategies for conflict prevention during public parades and gatherings.

**2.30** The initial training was completed by the Apprentice Boys of Derry in 1999. The annual figures<sup>56</sup> are as follows:

1999/00	28
2000/01	85
2001/02	490
2002/03	389
2003/04	508
2004/05	448
2005/06	394
2006/07	131 (at the time of research)

**2.31** In addition to marshal training, a small amount of monitoring training has also been delivered by East Tyrone College. The numbers of participants in 2003/04 and 2006/07 were as follows:

2003/04	13
2006/07	14

**2.32** It was suggested by one group of interviewees, having looked at the work of the Royal Borough of Chelsea and Kensington in relation to the Notting Hill Carnival, that early each year, it may be useful to bring together parading organisations and local government agencies (eg. NIO, DSD, DCAL, Local Councils, CRC, and the PSNI) to discuss the planning and management of major parading events in the forthcoming year. As one interviewee asked, ‘The Twelfth of July happens every year in Belfast, so how can this be managed to make it better for the city?’ It was admitted by some in the Loyal Orders that there is a need to build skills capacity within parading organisations to enable their engagement with other civic bodies.

**2.33** In this light, it was also noted that DSD have provided funding of £104,200 to the County Grand Orange Lodge of Belfast ‘to employ a development officer for three years to implement a strategy for the management of Twelfth of July celebrations within

Belfast. The objectives for the post include: encouraging the Twelfth of July as an economic promotional day for trade and commerce in Belfast city centre and its main arterial routes; and, promoting Belfast in a positive light and encouraging visitors to watch the parade.’<sup>57</sup>

**2.34** This positive development might, however, be contrasted with the experience of the organisers of the 2005 Maiden City Festival who stated:

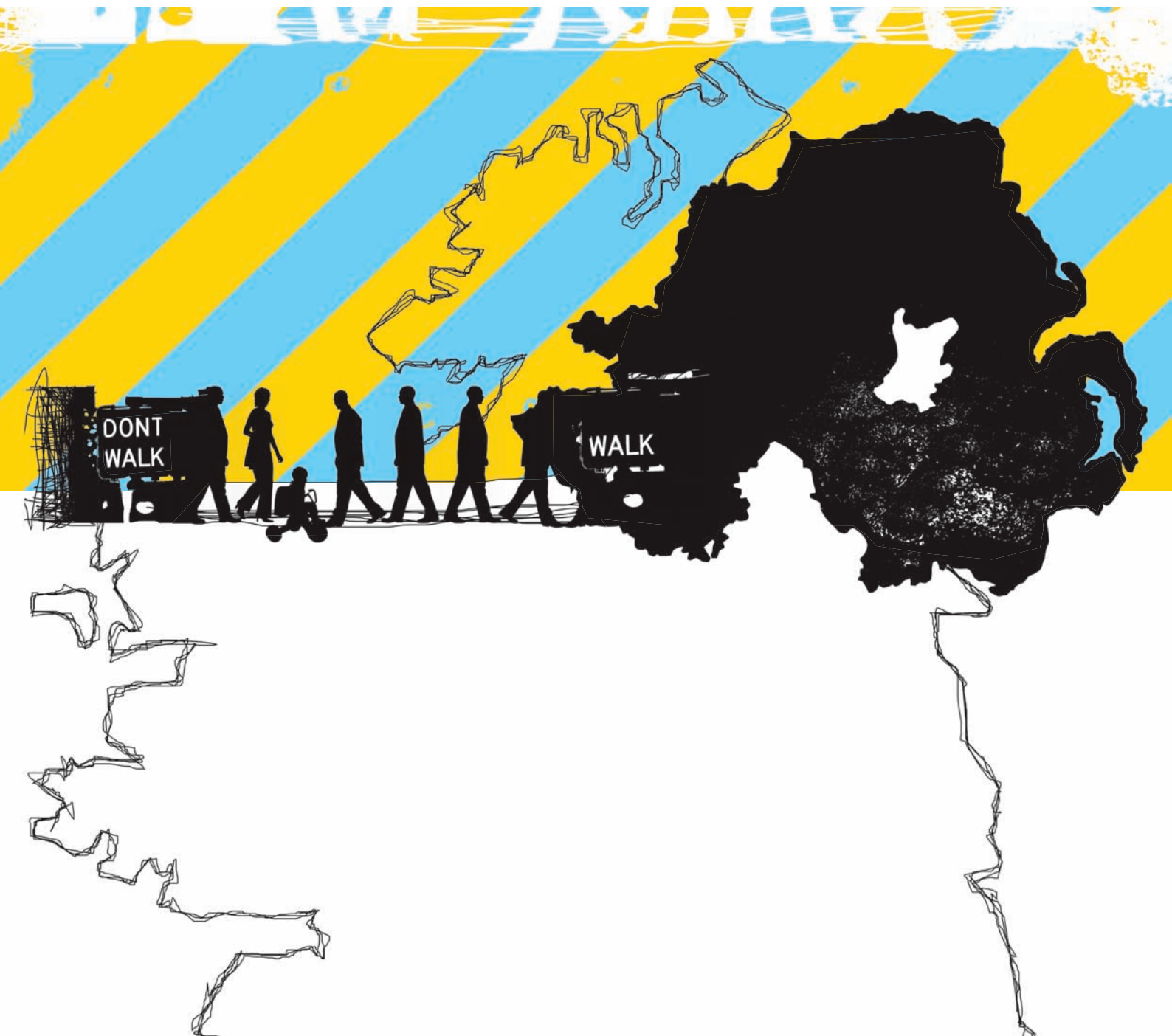
‘We were spending more time trying to source funding than we were putting into the festival ... We looked at other festivals throughout Northern Ireland – we looked at, for example, the West Belfast Festival, we looked at the Ardoyne Festival, the Bogside Fleadh – and all these festivals have full-time workers... We couldn’t even get funding for a full-time worker. We tried to run it on a part-time basis, but there’s so much work involved in it, it’s simply not possible.’<sup>58</sup>





# 3.

## Reasons for Contention Around Parading



## 3. Reasons for Contention Around Parading

### Statistics and Terminology

3.1 As Table 2 above highlights, approximately 7% of parades per annum are considered to be sensitive or contentious. It was emphasized that the vast majority of parades are non-contentious and pass off peacefully. It is also clear that within different areas there are different reasons for contention. This 7% figure is itself disputed because the question of how parades come to be flagged as contentious/sensitive in the first instance is problematic (see further ‘notification’ below). Some interviewees believed that a much greater number of parades actually raise sensitivities but are not deemed to be contentious because:

- there is no vocal opposition group,
- ‘business owners do not want to put their heads above the parapet’,
- the police do not mark it as sensitive, or
- the parade takes place ‘within its own area’.

This argument implied that the local management of parades must be seen as wider than merely focusing on ‘contentious parades’. Instead, it requires the organisers of all parades to engage with relevant stakeholders.

3.2 Table 3 clearly demonstrates that not every parade viewed as contentious, or even every parade against which a protest is notified, is subject to a Parades Commission determination. In 32 out of the 64 towns/cities included in Table 3, there was at least one notified parade deemed to be ‘contentious’ in 2006. In the other 32 towns/cities, no processions were flagged as being contentious. The latter areas included Antrim (38 processions notified), Ballymoney (52), Bangor (64), Carrickfergus (53), Coleraine (57), Larne (57), Lisburn (94), and even London/Derry (59). This suggests that the parades highlighted as being contentious do not always correlate with those that might commonly be associated with contention. This in turn raises questions about how contention is determined, and whether the determining criteria are consistently applied. The table further reveals that the frequency of processions in an area is not necessarily a determinant of contention. It is also notable that there are remarkably few parade related protests notified. One reason for this may be that in many

areas restrictions are anticipated and so no protest is thought to be necessary (– on occasion, though, protests are notified against a parade precisely because no limitations have been imposed upon it).

3.3 Again, issues relating to terminology arise. Some residents felt that the term ‘sensitive’ underplayed the nature and depth of offence caused by parades – ‘parades aren’t sensitive – they’re contentious.’<sup>59</sup> Some interviewees also referred to the way areas become labelled as either commercial or residential areas – one example given was the reference to ‘Ardoyne shop fronts’: ‘This is an attempt to dilute the residents’ argument. ‘I don’t live in a shop, I live in a house and I’ve lived there for the past 40 years.’<sup>60</sup>

### Local histories

3.4 Clearly, experiences of parading vary from area to area. Many interviewees spoke of conflicted histories dating from the nineteenth century and throughout the twentieth century.<sup>61</sup> Many also spoke of the more recent troubled history surrounding parades.<sup>62</sup> This was often related to issues of conduct (see further below), but some from the protestant/unionist/loyalist tradition also spoke of localised intimidation, sometimes describing this as ‘ethnic cleansing’. In London/Derry, for example, one protestant interviewee stated that the West Bank had witnessed the biggest forced movement per head of population since the second world war (and that 16,500 Protestants left the city side from 1969).<sup>63</sup> Interviewees from a nationalist/republican background in another town countered suggestions that intimidation had occurred in that town – ‘it must be stressed that no Protestant was ever intimidated or forced to leave the area.’<sup>64</sup>

3.5 In general terms many from the catholic/nationalist/republican community expressed views similar to that articulated by one interviewee: ‘Parades from the unionist community were given *carte blanche* to parade when and where they wanted - particularly around the city centre. On the other hand, nationalist parades – not even republican parades – were banned from the city centre.’<sup>65</sup> Against this backdrop, it was noted that

even if there wasn't violence at parades during the 70's and 80's, there was massive resentment at this unequal access to public space. This was seen to entrench unequal power relations in Northern Ireland.

- 3.6 Many therefore viewed parading as 'a throw-back to those triumphalist days of Unionist/Orange supremacy which should be consigned to history.'<sup>66</sup> In the words of another interviewee, 'their majority is gone and they see this as their 'Alamo.'<sup>67</sup> 'They want to keep on marching where they're not wanted – they want that supremacy over the nationalist and republican people.'<sup>68</sup> It was emphasized that deep-seated resentment remains in relation to the experienced inequalities and injustices during a period of imposed unionist supremacy. In acknowledgment of this perception, a member of the Loyal Orders stated: '[the residents] see us as the representation of the former unionist council – recent history – whereas 300 years of history is being ignored – or swept under the carpet.'<sup>69</sup>

## Broader political considerations

- 3.7 One interviewee suggested a straightforward explanation of the reasons for contention – 'In a nutshell, we're a loyal order – we're in an institution which is pro-British and Irish Republicans will always oppose any institution which is seen as a hurdle or stumbling block to a republican socialist Ireland.'<sup>70</sup> Other members of the Loyal Orders stated their belief that opposition to parades is often unrepresentative, disingenuous and politically motivated. Some questioned: 'Why is there intolerance shown towards certain parades and not others?'<sup>71</sup> and 'Why can a parade pass by an area one week and not the next?'<sup>72</sup> One interviewee also queried 'the role of the Department of Foreign Affairs of the Republic of Ireland Government.' Many also expressed a deeply held view that residents' groups have been orchestrated by Sinn Fein to undermine Unionist culture.<sup>73</sup>
- 3.8 Some holding this view pointed to the increased number of arson attacks on Orange Halls after the first IRA ceasefire. One record of such attacks listed 257 attacks on Orange Halls between 24 August 1989 and 23 April 2007, 44 of which resulted in the hall being destroyed and

120 of which occurred between 1995 and 1998.<sup>74</sup>

- 3.9 Many of those interviewed spoke about the security build up in an area in advance of a disputed parade, as well as the increasing frequency of attacks on residential homes (particularly in interface areas). 'It's not just the day of the parade, but when you enter the parading season the tension just rises.'<sup>75</sup> The point was also made that parading and the erection of flags are fundamentally linked (both temporally and geographically) and that a more holistic approach may be required to regulation.<sup>76</sup>
- 3.10 Some members of the Loyal Orders also felt that they had been held hostage to residents' groups demands simply to avoid confrontation between the PSNI and republicans. Those holding this view argued that because of the likely detrimental impact on efforts to secure republican support for post-Patten policing, the Parades Commission and police have sought to avoid a situation where, for example, a sit-down protest by nationalist/republicans may have to be forcibly broken-up.

## The Parades Commission

- 3.11 In the eyes of a number of interviewees, the Commission has played a vital, and under-acknowledged, role in managing tensions around parades and related protests since its establishment (see similarly the extract from the Northern Ireland Affairs Select Committee's Second Report in 2004-05 in Appendix IV).<sup>77</sup> Several interviewees pointed to the failure of one of the main protagonists – the Grand Orange Lodge of Ireland – to engage with the Commission, and therefore argued that the Orange Order should forfeit the right to be critical of the Commission – 'it is the Loyal Orders who should shoulder the blame.' Indeed, while some members of the Order supported this policy of non-engagement with the Commission, others were less supportive, believing that only by talking to the Commission could they effectively explain their culture and heritage.
- 3.12 Many members of the Loyal Orders argued that the Parades Commission is part of the problem rather

than part of the solution. In the words of one Orangeman, ‘the first Commission justified restrictions on the basis that it needed to break the cycle of parading ... Now there isn’t a spoke left in the wheel.’ One written submission expressed the hope that the Strategic Review Body would find the Parades Commission to be flawed, arguing that ‘[i]t is an unelected, unaccountable quango which has given appeasement to republicans and has delivered biased, weak and shallow decisions on parades.’ Several nationalists/republicans expressed the view that the makeup of the current Commission compromises its impartiality.<sup>78</sup>

**3.13** The findings of a survey in 2001 revealed that only 35% of Catholics and 8% of Protestants felt the Parades Commission had improved the situation, with 50% of Protestants and 14% of Catholics believing that the Commission had actually made the situation worse.<sup>79</sup> An earlier survey in 1999 found that only 15% of those questioned believed that the Commission was successful.<sup>80</sup> As one commentator has suggested, though, these public attitude findings are not surprising given the Commission’s inability to draw upon the normal forms of legitimacy – it is neither a democratic nor judicial body.<sup>81</sup> Many interviewees advanced arguments relating to the operation of the Commission and the *Public Processions (NI) Act 1998* (as amended). These are examined further in Chapter 4 of this document under the headings ‘Principles’, ‘Procedures’ and ‘Structures’.

## Non-dialogue

**3.14** Many respondents stated that the absence of genuine engagement is fundamental to many parade disputes. One resident, for example, stated: ‘We dispute the right of local people to march around [town] without any kind of a process.’<sup>82</sup> When asked whether dialogue would still be necessary if those seeking to parade *unilaterally* addressed the concerns of residents, the same spokesperson said: ‘It would at least create a very different climate.’ Others, though, argued that recognizing the sensitivities of the local community could only be done through direct face-to-face dialogue. On this view, engagement was said to be the

very minimum due to those who live in an area through which a parade passes. It was suggested that unilateral gestures in the absence of dialogue would only further demonstrate the lack of respect for, and recognition of, residents as equal human beings. It was argued that dialogue must be entered into on the basis of no pre-determined outcomes. Many hoped that recent political developments might pave the way for local dialogue. London/Derry was highlighted as an example of where talks facilitated by business leaders have resulted in an accommodation being reached. Nonetheless, at least three interviewees pointed to the difficulty of using existing fora and channels to facilitate dialogue around parades because of the potential nuclear impact on other cross-community work (see further ‘Mediation and pre-mediation’ at para. 4.69 below).<sup>83</sup>

## Parade routes

**3.15** The routes followed by particular parades are at the heart of many seemingly intractable disputes. The Loyal Orders, for example, argue that certain routes are traditional. Others, however, reply that significant demographic changes ought to mean that processions should not be held in areas where no-one is likely to enjoy the event:

‘... We don’t want to know about their 11th night. We want to be left alone to get on and do our business and let them do the same thing. But they have to come up to this section of the town – and yet there’s about 75-80% of this town that is not contentious, and we’ve no bother with that. Let them go there. Yet why do they have to come up to this section of the town – only pure coat-trailing, pure aggravation, and to keep the pot boiling.’<sup>84</sup>

Members of the Loyal Orders pointed to a number of routes that they have ‘given up’ and no longer parade. An example was given of Sandy Row District which no longer parades to Broadway Presbyterian church on the Falls Road.<sup>85</sup> Other members stated that demographic change has sometimes been the result of intimidation, and that parades should therefore be maintained (see ‘Local histories’ at 3.4-3.6 above). An analogy was also drawn with the Notting Hill carnival, where it was stated that residents were told

by the Council that ‘You buy property on this street knowing that it is on a parade route in the same way as you know it is on a particular bus route.’<sup>86</sup> This issue maps onto questions of sharing public space (see further 4.17-4.26 below). Others observed that new routes are being paraded by the Loyal Orders.

## Questions of locality & belonging

**3.16** Related to issues of route and demographic change, are issues about where those who parade, and those who protest against parades, actually live. Members of the Loyal Orders and residents questioned the legitimacy of those from outside a particular locality respectively to protest against a parade, or to parade, in that locality. The point was made by members of the Loyal Orders that in some rural areas, those belonging to the Loyal Orders might shop in a town, and use its facilities, but actually live in the surrounding countryside. Nonetheless, they feel that it is as much ‘their town’ as it is those who live within the town boundaries. Residents spoke about parades where ‘the vast majority of [marchers] had been brought in from other districts’ – ‘strangers’ being given safe passage’ by the police through our town’.<sup>87</sup> Similarly, the Loyal Orders referred to protesters being bussed into an area. Some interviewees asked ‘what constitutes a residents’ group? Is it three people in a street, or thirty-three people in a street?’<sup>88</sup>

## Local’, ‘Feeder’ or ‘bus stop’ parades

**3.17** The term ‘feeder parades’ (used to describe parades held before travelling to, or returning from, a main demonstration elsewhere) was argued by parading organisations to be misleading: the main purpose of many morning and evening parades is not simply to get to (or ‘feed’) a main parade in another area, but rather to continue the local tradition: ‘The term ‘feeder parade’ suggests that one parade is subservient to another larger parade, but these parades are organised independently by the local branch clubs in the particular areas. It’s their parade.’<sup>89</sup> Consequently, it was argued that such parades should be described as

‘local parades.’ Others, however, argued that the issue of ‘feeder parades’ was problematic. It is an issue that has caused problems in terms of reaching an accommodation in London/Derry because an agreement about the main parade is often contingent on agreements about local/feeder parades. Some interviewees spoke about ‘Bus stop’ parades – where parades march down a disputed section of road only to get on a bus to travel elsewhere.<sup>90</sup> Residents concluded that the only possible explanation for walking that particular route must be to antagonize those who live there. ‘Do they have to march past the chapel to get on the bus to get somewhere else?’<sup>91</sup>

## Types of parade & conduct related issues

**3.18** Several residents’ groups members distinguished between local Loyal Order parades (particularly ‘church parades’), and band parades: ‘We’re not disputing the right of local people to march around the town, but we have major problems with the band parades.’<sup>92</sup> In many areas, there were specific concerns raised about the conduct of ‘blood and thunder’ bands and of their followers.

**3.19** While there was recognition by residents in some areas that parading organisations had attempted to take responsibility for their events – ‘In fairness, they have dealt with most of the issues’, in other areas, conduct is the main reason for contention – residents citing past evidence of those on parade being gratuitously offensive, urinating in gardens etc.<sup>93</sup> Others, however, argued that it was unfair to single out the Loyal Orders for anti-social behaviour, stating that not only does this relate to a minority of parade participants, but also that problems such as urination in public places or on private property ‘can happen if there’s a football match or rugby match on, or on a Friday or Saturday night in the town. No-one wants to see that – but it’s like alcohol, you can see that anywhere.’<sup>94</sup> In the words of one member of the Loyal Orders:

‘Our membership has been well warned down through the years, anyone who is intoxicated has to be removed from the ranks – and it has happened. I have to say that we’re talking about a very



very small minority of people. But again, one person is one too many and we will certainly do our utmost to eradicate that menace from our parades. But to point the finger at parading organisations to say you're responsible for urinating in the street is totally unfair ... We can't deny that it has happened – we can't deny that it's probably still happening. But if you come up here on a Friday night you'll see young people out there doing a lot more than urinating and under-age drinking, and yet the council and the police turn a blind eye to it.<sup>95</sup>

- 3.20** It was argued by some interviewees that Monitors should be equipped with cameras to fully record breaches of the Code of Conduct, and that there were important issues to be addressed about the way in which monitors are deployed (see paras 4.60 - 4.61 below).

## Paramilitary paraphernalia

- 3.21** A number of respondents (both Loyal Orders and residents) showed photographs of paramilitary paraphernalia being carried, or militaristic uniforms being worn, during republican and loyalist parades. One residents' spokesperson said he had 'No problem with Union flags, Orange Standards, or Ulster flags'. Rather, the issue was with UVF or UDA flags, including UVF 1912-14 flags: 'When people living along the route have had loved ones murdered by those paramilitary groups, they just see the letters 'UVF'.<sup>96</sup> Others simply argued that those carrying 'UVF 1912' flags were almost always closely connected with the present day UVF, and that it was sheer pretence to suggest otherwise.
- 3.22** Many in the Loyal Orders countered that the UVF 1912 was a legitimate flag with historical significance – '1912 UVF is perceived as a legitimate organisation that fought and died at the Somme. It will not be airbrushed out of history, or be allowed to be tainted by the modern UVF.' The same member of the Loyal Orders stated:
- 'This organisation does not endorse the carrying of flags that are illegal. If it's made illegal, then we'll say 'right – we don't want it'. But we can't turn round and say we don't want it because some people perceive it to be something other than what it actually is.'<sup>97</sup>
- 3.23** There were also objections raised about YCV (Young Citizens' Volunteers) and UYM (Ulster Young Militants) flags. While neither are proscribed organisations, the YCV is viewed by residents as being the youth wing of the modern day UVF (not an organisation with historical significance), while the UYM is commonly recognised as being the youth wing of the UDA.
- 3.24** Traders too have raised issues about flags. One consultee stated:
- 'The like of the summer time – the red, white and blue bunting and the flags went up in the town centre. That's intimidating to shoppers. Shoppers went elsewhere – it was a big issue here last year. 2004 and 2005, July was my highest turnover month of the year in my own shop. Last July I was wiped out. I was down dramatically last year – and it wasn't all to do with that, but a lot of my customers would be Catholics. They didn't come [here]. [Question: Is there any agreement about when bunting goes up or when it comes down?] No. You don't say anything to those guys. They shouldn't be allowed to put it up – it's illegal ... Everybody's afraid to make the move – that's the bottom line.'<sup>98</sup>
- 3.25** The most recent Northern Ireland Life and Times Survey results<sup>99</sup> showed that a majority of respondents believe that paramilitary groups are responsible for putting up Union flags and Irish Tricolours on lampposts: 57% thought that paramilitary groups were responsible for putting Union flags,<sup>100</sup> and 55% thought that paramilitary groups were responsible for putting up Irish Tricolours.<sup>101</sup> This reiterates the point made at para.3.9 above that issues of flags and parades are intertwined.
- 3.26** In relation to republican parades, similar issues were raised by some protestant/unionist/ loyalist interviewees in relation to the 'Sunburst' flag. Serious concerns were also raised about the paramilitary style uniforms often worn. This was accompanied by a perception that the police did not intervene to prevent such displays – 'had loyalists been so overtly paramilitary, the police wouldn't have allowed it.'<sup>102</sup> Moreover, as one member of the Loyal Orders stated:
- When we're asked questions about paramilitary trappings, we're quite clear – we're against it, we don't want it, and we'll work

within the law. But it's very difficult to answer those questions when we see what we see, and nothing being done about it. And how then can we go to our people and say 'you can't have this' – it makes our job more difficult.'<sup>103</sup>

This also relates to a criticism of the Parades Commission for not more strictly monitoring and enforcing its Code of Conduct (see further paras. 4.57-4.61 below). Furthermore, many interviewees raised the issue of illegal (unnotified) parades, and the perceived absence of prosecutions for participation in such events.

**3.27** At present, there is little agreement about the legitimate parameters for music, flags, banners, uniforms, badges and other insignia displayed in public processions. One member of the Loyal Orders, for example, stated, 'Someone needs to tell us what a paramilitary uniform is.' Moreover, to paraphrase Professor David Feldman, these resonate historically and socially in ways particularly damaging to the dignity and sense of worth of those attacked.<sup>104</sup> Yet, if the symbols associated with ex-combatant groups do have residual communal support, it might be argued that their display should thus be accorded a degree of protection. On this account, consideration of paramilitary displays would be distinguished from other categories of symbolic speech widely regarded as having little or no societal value ('fighting words' for example).<sup>105</sup> This raises difficult issues around commemoration in periods of transition, and the Review Body may wish to explore these further.

## Music

**3.28** The Parades Commission has, on occasion, highlighted sensitivities around the playing of 'party tunes'. For example, in a recent decision the Commission stated that the parade organiser should be mindful 'that the playing or singing of party tunes such as 'The Sash' and 'Derry's Walls' is inappropriate at sensitive locations as it could reasonably be perceived as intentionally sectarian, provocative or threatening.'<sup>106</sup> Responding to this view, one interviewee asked 'What sentence in "the Sash my father wore" is offensive?'<sup>107</sup> In relation to

London/Derry, another member of the Loyal Orders argued 'if a band doesn't play Derry's Walls when it's coming inside the walls of Derry, where should it play it?'<sup>108</sup> It was also argued that music or tunes could not of themselves be offensive – 'it is possible for the same tune to be associated with several different versions of lyric, and offence can be taken where none was intended'. One example given was of 'God bless the Prince of Wales' which is sung to the same tune as 'No Surrender' and 'Derry's Walls'. Others, though, argued that often it is not merely the tune or the words, but the manner in which it is played.<sup>109</sup>

## Frequency of parades

**3.29** In distinguishing between different types of parade, a number of residents' spokespersons highlighted the cumulative impact of repeated (particularly, band) parades in certain towns (see further Table 3 above).<sup>110</sup> Another interviewee argued, however, that the official statistics inflate the number of parades because they count outward and return parades separately, and also count as separate local parades which ultimately converge into a single larger parade – thus '3,500 parades might only be 1000 parades'.<sup>111</sup> It was also argued by a number of members of the Loyal Orders that their organisations have already given up many parades in different areas.

## Disruption to the life of the community

**3.30** Some suggested that parades unduly impinge on the rights of others because of the level of disruption they cause. It was stated that disruption is often exacerbated because of the amount of traffic now on the roads. In the words of one resident of a small town: 'I have nothing against parades, people expressing their identity, but you have to do that with understanding of the other person ... The top of the town is closed off – we don't have access to the town ... People are hassled trying to get to Mass on Saturday night.'<sup>112</sup> Others, however, urged that some disruption was inevitable and this should not override the fundamental importance of the right to peaceful assembly.

## Impact on Community Relationships

**3.31** It was acknowledged that the ‘communication effects’ of parading,<sup>113</sup> are difficult to quantify – ‘how can the impact of parades on community relations be measured?’ ‘What is the baseline?’ This is particularly so, as one or other party will usually be unhappy about the Parades Commission’s determination if no agreement is found. In the words of one interviewee, ‘the implication, therefore, is simply that unless a resolution is found, then parades are going to impact in a negative way on community relations.’<sup>114</sup>

## Impact on the wider community

**3.32** Many interviewees acknowledged that particular parade disputes (particularly Drumcree and Whiterock) have a spill-over effect on other areas in Northern Ireland. This might, for example, be as a result of the negative reaction within one community to a Parades Commission determination, or a generalised deterioration in police-community relations as a direct result of violence at a specific dispute.

## The social and economic impact of parades

**3.33** While many in the Loyal Orders suggested that parading could have a positive economic impact, this has not been quantified – ‘Government have made no estimate of the revenue accruing to the economy in Northern Ireland through the Twelfth Celebrations.’<sup>115</sup>

**3.34** The Loyal Orders also acknowledged that there can, on occasion, be losses to traders. One example was given of a band display in a town between 6-7pm on a Saturday evening. The local newsagents claimed the display was having a detrimental impact on his busiest hour of the week – the time when people came bought their lottery tickets, and inevitably made other purchases too. It was stated that the impact on trade will depend on the nature of business – while a newsagent or confectioners might see an increase

during a daytime parade, a tailor, for example, might be more likely to see losses. The further point was made that losses may not necessarily be due to the parade itself, but to the tensions surrounding parades and the attendant policing operation.<sup>116</sup>

**3.35** It was argued by one respondent that local Chambers of Commerce are the best forum for representing business interests to the arbitration body. One trader interviewed, argued that there were directly quantifiable losses in terms of ‘money in the till’:

The contentious ones would be evening parades – they’re the problem ... The town just has to close. Once the shopping public hear there’s a parade – ‘We’re not going there’, and the followers who come to a parade aren’t spending money ... There’s a band parade this Friday night and it’ll wipe the town out. The businesses that’ll affect are a few clothes shops, things which open late on a Friday night ... You have Tesco’s, Lidl and Iceland which open late and which are located in the town centre. Now, the band parade effectively closes off the centre of town – all those businesses are wiped out. Cafés, restaurants, that sort of thing – the like of the Chinese ... the illegal street traders move in, which means everybody buys their burgers off them, so the people on the street aren’t buying out of the shops, and the customers who would be coming into those Chinese can’t get in, so therefore they do nothing. I know the people in [one of them] well. I would say their takings this Friday night would be down by at least two thirds. That’s not fair – the shops are the ones that’s carrying the heavy rates burden. Town centres are under pressure from out of town retail. I mean would this be allowed to happen in an out of town retail park? No. Would it be allowed to happen in the housing estates where the people are who want to see the parades? No – cause they don’t want them. So let’s put it in the town centre where the retailers are – don’t worry about them. That’s the attitude. Now there’ll probably be 10 band parades here this summer, and that loses us 10 nights over the summer, and 10 nights out of your year as a retailer is quite a bit ... 8 or 10 parades is ridiculous ... The Loyal Orders aren’t normally a big issue.<sup>117</sup>

**3.36** Other interviewees spoke about the long-term impact of parade disputes on local businesses and infrastructure. It was recounted that residents had boycotted protestant businesses in the late 1990s in response to the widespread Drumcree related protests. Another interviewee from the same residents’ group

noted how this escalated and led to patterns of segregated commerce. Furthermore, it was argued that those from outside areas who come into the town to parade are ‘told at the foot of the town which shops to go into.’ He continued:

We need change. This damn place is dying on its feet economically. If you come into [...] from 4 o’clock on a Monday morning, you’ll see the white vans and the cars going out of this place like the hammers out of hell for Belfast, for Dublin, for Galway to wherever there is work, because there is no damn work in [...]. You can see the infrastructure is zilsh...<sup>118</sup>

**3.37** One interviewee stated that supermarkets have claimed losses of up to 80% of their trade in an evening because a parade is taking place nearby.<sup>119</sup> Publicans in at least one area have also claimed that they might as well have closed the doors on a parade night – ‘no-one came, taxis couldn’t get through etc’.<sup>120</sup> It was argued that traders still do not put their heads above the parapet – not necessarily because they fear being attacked, but because they would be seen to be political. Nonetheless, an example was cited of a Chamber of Commerce making representations to the Parades Commission in terms of loss of trade. It was argued that ‘the Loyal Orders and bands need to recognise that there are people who put forward objections who are not putting forward objections because they’re in Sinn Fein. There are Protestants who are putting forward objections.’<sup>121</sup> Another interviewee suggested that things could potentially change – ‘the middle classes who couldn’t be bothered with parades – might start to ask questions. People have not complained, and nationalists may not have pushed because they haven’t had the confidence to do so.’<sup>122</sup> Others suggested that Town Centre Management committees could also become more involved in addressing parading issues because of the damage to property and the disincentive caused to visitors.<sup>123</sup>

**3.38** One interviewee from a parading organisation argued that traders also had responsibilities in assisting the positive transformation of parading culture. It was suggested that business owners could help make the ethos of an event or festival more inclusive by, for example, decorating their windows accordingly, or displaying charity collection boxes. It was stated that ‘although, for example, Town Centre Management

might put an advertisement in the paper welcoming people, it’s also about staying open as closing up shop sends out the wrong message.’<sup>124</sup> Another example was given where local bars agreed to open their toilets for use by those on parade and spectators.<sup>125</sup>

**3.39** Many of the areas where parades are contentious are working class areas where there are high levels of social deprivation. It was argued that there is no way of attracting investment into these areas until a resolution is found because they are viewed as synonymous with the fallout from contentious parades. The social costs of parade disputes are well documented in the report published by the Community Development Centre in North Belfast in 1997 entitled *On the Edge*.<sup>126</sup>

**3.40** One submission to the *Quigley Review* in August 2002 stated that:

‘[t]he events which have taken place every summer since 1996 in relation to parades and marches have been extremely damaging to many aspects of the local economy, including:

- significant damage to the tourism industry and its short to medium-term prospects;
- extremely damaging images of Northern Ireland which deter many potential inward investors;
- a significant loss in business confidence and resulting damage to investment intentions;
- in some years, significant costs incurred by local businesses due to closures (because of intimidation) and inability to service customers (because of road blockages)
- an increase in sectarianism and community polarisation, delaying the transition to a stable society which the community wishes to see and which is essential if Northern Ireland is to achieve the competitiveness essential for success in the global economy.

As long as the existing climate in relation to parades and marches prevails, the blockage of roads, particularly arterial roads, along with access to Northern Ireland’s ports and airports, cannot be ruled out. This creates an unacceptable atmosphere in which to try to do business – when not only is there the possibility that the free movement of goods into and out of Northern Ireland may be stopped, but there is also the chance that employees may be prevented from travelling to and from their work.’<sup>127</sup>

## Parades and Policing

- 3.41** In the words of one interviewee, the ‘disconnectedness of loyalist and republican communities from the police is largely down to parades.’<sup>128</sup> In this light, some argued that the Parades Commission has served as ‘a buffer’, allowing new policing institutions to take root. Others disputed this, arguing that the police still have to pick up the pieces after the Parades Commission impose a determination, and that Commission rulings inevitably impact on police-community relations.<sup>129</sup> Still others remain distrustful of the PSNI – some spoke of police heavy-handedness in policing parades, and of differential treatment in the policing of protesters and those on parade.<sup>130</sup>
- 3.42** Some concerns were expressed that the police seem only to take action against loyalist paramilitary flags (and film these during parades) but appear to ‘turn a blind eye’ to republican flags and symbols in republican parades. Others voiced concerns that the police often seemed more intent on policing the communities affected by parades than the parades themselves.<sup>131</sup> Issues around poor traffic management were also raised, and there was a suggestion that what was needed was a dedicated police officer in each region so there is continuity of local experience, and working relationships.
- 3.43** Many interviewees acknowledged that there has been a significant improvement in the management of public order around parades. Examples were given where the police had been proactive in handing out flyers to parade participants as they disembarked from their buses. These were of the nature, ‘Welcome to our town, we hope you have a good evening. If you need toilets, they can be found at ... On street drinking will not be tolerated. Please use litter bins’ etc. Another respondent argued that the police in some areas have still not fully recognised the utility of stewarding and monitoring and its implications for event management and police planning. It was suggested that there needs to be further work in this area, including the drawing up of protocols between police and event stewards clearly delineating their respective responsibilities.
- 3.44** One interviewee also noted that if the Commission has given permission for a parade to take place, the police ‘back off’. It was suggested that this has led, on occasion, to those on parade simply dictating what they are going to do – and that this was particularly the case in areas that are nominally regarded as predominantly Protestant/Unionist/ Loyalist.<sup>132</sup> While some interviewees felt that there is a need for flexibility in policing parades (given especially that bands often travel long distances to parades) others were critical of the lack of police intervention – ‘half the parade was over, and still buses were arriving.’ Given, however, that these experiences are specific to particular localities, there is a further problem of mixed messages – ‘bands think that when they travel somewhere different that they should be able to do exactly the same thing.’<sup>133</sup>
- 3.45** The PSNI was generally supportive of the Parades Commission model, and stated that ‘the Parades Commission has shown judgement in deciding when to adopt a more prescriptive approach and when to facilitate agreement between groups.’ ‘The PSNI view parading as a human rights issue, and conceive of their role as being to secure the rights and freedoms of all in Northern Ireland, without discrimination on any ground. ‘The central approach to policing such events has been in recent years to ‘avoid any surprises’ and ensure that everyone involved has been consulted and is aware of what police action will look like and entail.’ In the view of the police, this principle, has helped defuse potentially very difficult situations.<sup>134</sup>
- 3.46** One respondent said that the police insist on determinations being issued so that they have written instructions to adhere to. Indeed, the police have on occasion sought clarification about how to interpret a determination. Notwithstanding, in June 2006, the Police Ombudsman’s Office found that the PSNI had breached a Parades Commission determination in relation to a Royal Black Preceptory parade on 13 July 2004 in Lurgan. This followed complaints from the SDLP, Sinn Fein and also Ulster Human Rights Watch about events earlier in the day. The Ombudsman’s office also found, however, that the Parades Commission’s determination lacked clarity, and recommended that the Commission should issue detailed maps when giving determinations concerning

the route of marches.<sup>135</sup> Such maps should include the formation point, the route to be followed including the direction of the march and other relevant information. In the absence of a map, the police should establish with the Commission if their interpretation of the determination is correct. Furthermore, if time permits, it was recommended that the police should also liaise with those taking part in the parade and with representatives in the area to establish a common understanding of the route as determined by the Commission.

**3.47** Concern was also expressed about the extension of police powers to take possession of land and close roads as envisaged in Clauses 28 and 29 of the draft *Justice and Security (Northern Ireland) Bill* respectively.<sup>136</sup> The Explanatory Notes for this Bill state that '[Clause 28] It is intended that such powers will be used during the marching season in Northern Ireland and to allow the rapid creation of 'peace walls' at interfaces where there is community tension. These powers may be exercised at very short notice, hence they are exempt from normal planning processes ... [and Clause 29] These powers are also intended for the management of the marching season in Northern Ireland. For example, roads and public rights of way may be closed at short notice in reaction to events on the ground.'

## Policing Costs

**3.48** In a preliminary written submission to this Review, the PSNI stated that they 'expend almost £18m annually on policing parades.' This accords with previous published annual costs of public order policing for the period June to September:<sup>137</sup>

- 2001 – £22,372,997
- 2002 – £28,338,883
- 2003 – £18,124,421

**3.49** In the three years prior to the enactment of the Public Processions (NI) Act 1998, the cost of police manpower directly employed in policing the Drumcree parade was £960,000 in 1995; £2,110,000 in 1996; and £680,000 in 1997. In the years 1998,

1999 and 2000, the cost of policing the protest at Drumcree in July was £11 million, £6 million and £5.5 million respectively.<sup>138</sup> This downward trend has continued—in 2000, the Average Daily Hours (ADH) of police overtime peaked in July with 22,800 ADH. In 2001, this figure decreased to 20,500 ADH while in 2002 the July peak was lower again at 17,300 ADH.<sup>139</sup> Furthermore, during the period July to December 1998, the monthly cost of maintaining a police presence at Drumcree was approximately £0.4million,<sup>140</sup> whilst by 2002, this monthly, post-July, premium had reduced to £54,250.<sup>141</sup> The PSNI costs of security arrangements for the parades of Portadown Loyal Orange Lodge No. 1 to Drumcree Church on the first Sunday in July 2003 and 2004 were £221,810 and £177,437 respectively.<sup>142</sup> Approximate costs of policing the Tour of the North Orange march in Belfast (the route of which changes on alternate years, resulting in different deployments) were £64,390 in 2004 and £74,533 in 2005.<sup>143</sup> The cost of policing the disorder which followed the restricted Whiterock parade in September 2005, however, has been estimated at over £3 million.<sup>144</sup>

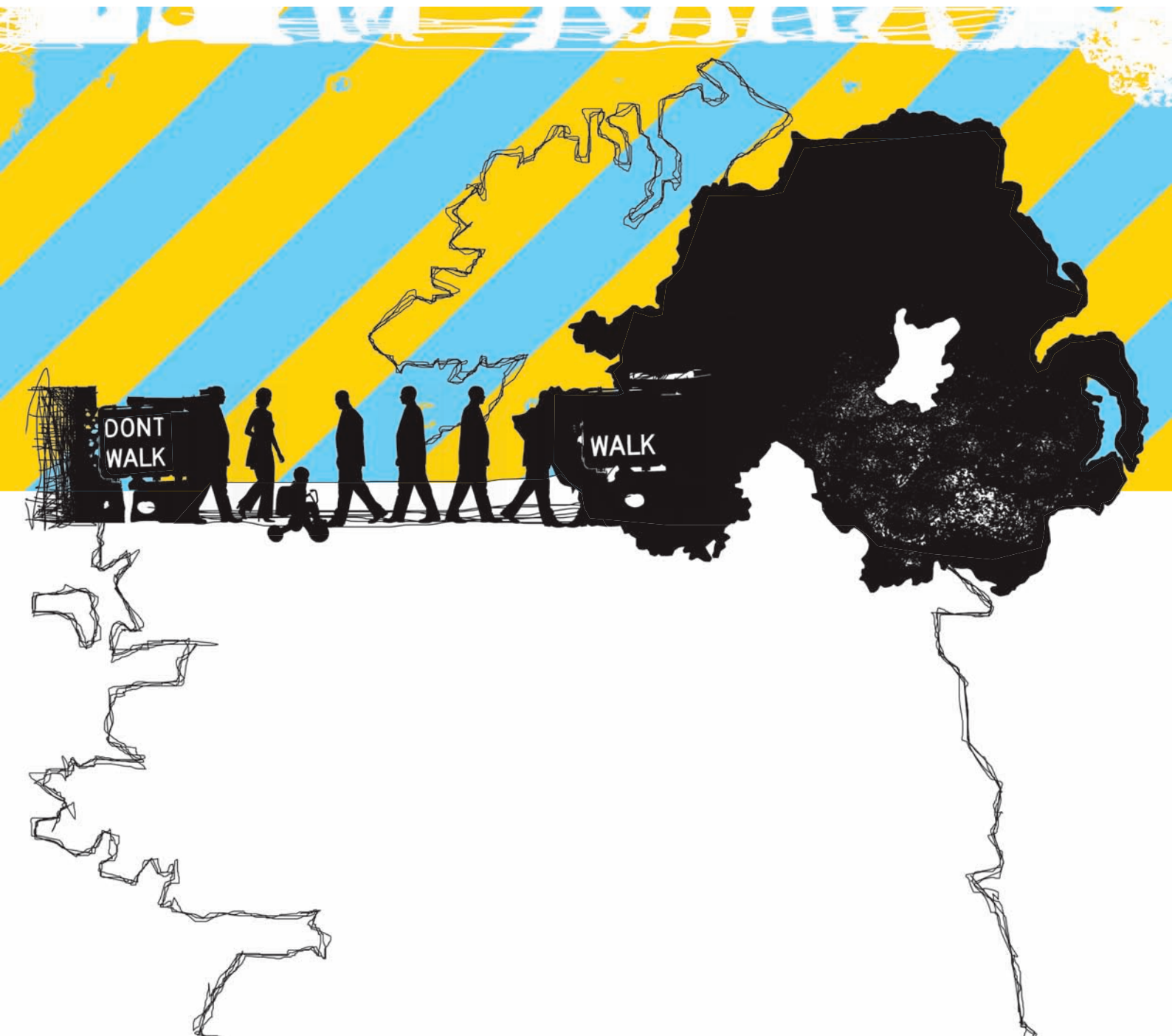
**3.50** The utility of these bare figures as a progress indicator is, however, questionable. The cost of policing parades and protests is contingent upon police-community relations, and these can be influenced by many factors other than the parades issue.<sup>145</sup> Furthermore, simply measuring the cost effectiveness of the policing operation says nothing of the principles upon which decisions are made, and whether those decisions are likely to lay the foundation for a long-term strategy. For example, the cost of upholding the Parades Commission's decision in 1998 to prevent Portadown LOL No.1 from parading along the Garvaghy Road, therefore, was greater than had been the (direct) cost of facilitating the parade in previous years.<sup>146</sup>





# 4.

## Towards a long-term strategy





## 4. Towards a long-term strategy<sup>147</sup>

### Towards a long-term strategy

- 4.1 In 1997, the North Review team stated that, in five years time, it might be that ‘the overall political situation and inter-communal relations will have stabilised to the extent that some of the structures we recommend could be dismantled.’<sup>148</sup> Indeed, the Secretary of State, when announcing the new membership of the Commission in December 2005 said that he was ‘appointing this commission with a mandate to work itself out of a job by helping to create an environment in which accommodations on parades can be made between the two communities without the need for formal determinations.’<sup>149</sup> The present Chairman of the Commission too has stated his desire to see the Commission ‘do itself out of a job.’<sup>150</sup>
- 4.2 While interviewees from different political, cultural and religious backgrounds were often critical of the Parades Commission (and indeed, often shared similar critiques), it was clear that the severity of criticism reflected the perceived satisfactoriness of the prevailing situation in their own localities. Some residents, for example, argued that in towns where parades have been restricted over successive years since 1997/1998, many would perceive the parading issue as largely resolved.<sup>151</sup>
- 4.3 A recurring theme during the interviews was that the core issue is not *who* is taking the decision, but *on what basis* those decisions are taken – how they are justified and explained. Thus, the structures put in place must be structures which best facilitate the most appropriate procedures. These procedures, in turn, will be those that best ensure that decisions are taken consistently on the basis of agreed principles. This chapter seeks simply to identify key issues – raised by interviewees – for further consideration by the Strategic Review Body under the headings ‘Principles’, ‘Procedures’ and ‘Structures’.

### Principles

- 4.4 A number of interviewees argued that the regulation of parades has, in the past, been driven by political expediency rather than fundamental principles. Indeed, it was suggested that the need to ‘keep the peace’ to facilitate political progress, has sometimes led to principles being sacrificed. One interviewee gave the example that ‘it might appear easier to restrict a parade in a rural town than a loyalist heartland because the backlash will not be so violent and the parties may grudgingly accept restriction.’<sup>152</sup> Another felt that the Parades Commission expects republicans ‘to hold it together’ – to police their own people – and determines accordingly.<sup>153</sup> It always, thus, favours loyalists on the basis that loyalism may not be able to ‘control its own people’ in the face of an adverse decision. Another interviewee likened the regulation of parades and protests to giving sweets to two children vying for attention, trying to keep both happy – the question posed, however, was ‘what happens when the horse-trading ends, and there’s nothing left to trade?’<sup>154</sup> This approach, in turn, was said to have created a perception that ‘the goalposts are on wheels’<sup>155</sup> and has arguably left the Parades Commission more vulnerable to the charge of inconsistency.
- 4.5 Some interviewees said that where parties knew they would get what they wanted from a determination, there was no incentive for them to enter into dialogue. Many interviewees argued, though, that there was a need for clear principles to ground decisions relating to contentious parades rather than simply hoping that an accommodation might be reached. It was also stated several times that there is a need for principles to be used in determining *what is* a contentious parade in the first instance.
- 4.6 Interviewees variously talked about principles of diversity, equality, respect, recognition, and tolerance. The Parades Commission’s ‘Common Principles’ and the OSCE Guidelines ‘Six Guiding Principles’ are reproduced in Appendices II and III respectively, and may be helpful to the Review Body in considering what principles ought to be paramount.

## Human Rights

- 4.7 At the time the *Public Processions Act* was introduced, there was ‘no express statutory or common law right of assembly in UK law.’<sup>156</sup> All interviewees, though, now recognised that the regulation of parading must comply with the requirements of the Human Rights Act 1998. The human rights issues at the heart of parades must also therefore be a central focus of the Review Body.
- 4.8 Parading engages a number of human rights issues, most obviously the right to freedom of peaceful assembly (under Article 11, ECHR), but also potentially the rights to life (Art.2); freedom from inhuman or degrading treatment (Art.3), freedom of movement (Art.5); private and family Life (Art.8), freedom of thought, conscience and religion (Art.9), freedom of expression (Art.10), peaceful enjoyment of possessions (Art.1 of Protocol 1), and liberty of movement (Art.2 of Protocol 4).
- 4.9 There is, however, a need to dig deeper than merely stating the existence of certain rights and acknowledging that they are not absolute. This means that the reasons for contention around parades outlined in chapter 3 (the frequency of parades, issues relating to conduct, music, flags and uniforms, disruption caused, impact on relationships, socio-economic costs etc.) must each be considered and weighted within a human rights framework. It was well stated by one interviewee that:

‘The Commission’s role is to act as a surrogate for the ordinary citizen – to articulate civic standards and human rights norms rather than simply saying ‘so long’ as the two sides get into a room.’

- 4.10 Furthermore, determinations should satisfy an evidential test in relation to the rights claims raised by different parties and, as one interviewee stated,

...should be more explicit and detailed in relation to how the human rights aspects were taken into account. Rather than merely containing a general assurance that the Human Rights Act 1998 was considered, they should identify expressly how each restriction or refusal falls within the scope of Art.11(2).<sup>157</sup>

- 4.11 Furthermore, many argued that there should always be a presumption against intervention – or a presumption in favour of the right (see similarly ‘Principle 1’ in the OSCE Guidelines, in Appendix III).<sup>158</sup> While the human rights issues have been discussed in some detail elsewhere,<sup>159</sup> there is scope for further (and more up-to-date) work to be undertaken in this area. Moreover, it was suggested that within the parameters laid down by human rights standards, there is a need for discussion and debate about how best to give effect to protected rights, and (more fundamentally) how those rights should be interpreted in the context of Northern Ireland’s society. As one interviewee asked ‘What is ‘peaceful assembly’? Is peaceful assembly turning up with UVF and RHC flags? Violence isn’t just physically hitting somebody.’ A further submission argued that:

‘... it is not enough for the Orders to claim simply that they will not threaten public disorder themselves. They are aware that their actions arouse fears, concerns and even anger of people living in the area through which they wish to parade. Surely it is not unreasonable that they would wish to understand the nature and origin of those emotions and seek to contribute to the promotion of understanding, and thereby, respect and tolerance.’

Another interviewee noted that, in allegedly attempting to satisfy the State’s positive obligation to protect rights, the NIO had proposed bolting a metal wall into the ground. This interviewee questioned the logic of facilitating people’s human rights in this way: ‘The only thing [this area] doesn’t have is a roof. What makes the government think that the way to solve this is to imprison a community to let a parade pass by.’<sup>160</sup>

- 4.12 Given that parading is predominantly an activity enjoyed by protestants/unionists/loyalists, it was suggested that a purely rights-based approach would inevitably lead to unequal outcomes (effectively guaranteeing the entrenchment of a dominant position). Others, however, argued that this need not be the case, suggesting that rights are fundamentally about recognising ‘the other’ as an equal, dignity-bearing person. It would not be inconsistent with this approach to suggest that where valid rights claims are raised, there ought to be dialogue about how best to reconcile competing interests within broad human rights parameters.<sup>161</sup>

## Dialogue

4.13 Nationalist/republican residents' groups have consistently requested face-to-face dialogue with those wanting to parade through what the residents describe as 'their area.' Members of the Loyal Orders have, in the past, argued that because their brethren, friends and relatives have been murdered by the IRA, any dialogue or engagement with residents' groups fronted by republicans with 'terrorist' convictions would betray both those whose lives have been lost, and their families. One submission further stated:

The proposed 'dialogue' is therefore in reality a strategy, by which the right to veto the use of the public road is given to residents groups who are intent on destroying the right to freedom of peaceful assembly of those taking part in processions organised by the Loyal Orders. This strategy has been devised by Sinn Fein/IRA to prohibit Orangemen from exercising their fundamental freedoms under threat of violence which it is politically expedient, from their point of view, to do so.<sup>162</sup>

4.14 Some interviewees distinguished between *explanation and justification* as a pretext for dialogue arguing that they had less of an issue with dialogue that sought to explain their traditions and increase understanding, but that dialogue which was about justifying their right to assemble – or worse, seeking permission to do so – would never happen.<sup>163</sup>

4.15 Not all the Loyal Orders have refused to enter dialogue with residents' groups. One member who has been involved in dialogue processes noted that 'the country's at relative peace now and much more conducive towards face-to-face dialogue, compared to what it was like ten years ago.' He explained that he 'went into dialogue simply to get a parade and I would encourage others to go into dialogue to get a parade.' Moreover, 'I think there's got to be dialogue. I think we're in that day and age now that without dialogue there can be no parade. You know, how can we not?'<sup>164</sup>

4.16 See further 'Procedure' (below) in relation to the 'who' and 'how' of dialogue and mediation.

## An Equal and Shared Future?

4.17 In 2003, the Government admitted that 'Northern Ireland remains a deeply segregated society with little indication of progress towards becoming more tolerant or inclusive.'<sup>165</sup> The Government's Shared Future initiative was launched in April 2005. It set out a policy and strategic framework for Good Relations in Northern Ireland.<sup>166</sup> The question to be addressed here is what do the Shared Future objectives<sup>167</sup> mean in relation to parades and protests?

4.18 The Parades Commission's determinations have, on occasion, suggested that the Commission aims to create 'a climate of tolerance, which is an acknowledged cornerstone of any democratic, pluralist society'<sup>168</sup> and that the Commission wishes to keep certain routes open having 'regard to the issue of shared space.'<sup>169</sup> In its 'Forward View' document, the Commission refers to 'working towards creating 'shared space' but does not clarify what this might mean. The document attributes a view to 'many in the Unionist community and in the Loyal Orders' that 'shared space' is preferable to 'creating no-go areas.'<sup>170</sup> On this point, the *Quigley Report* concluded that:

Denying access to certain routes on the basis of considerations closely linked to the demography would consolidate and strengthen the trend towards segregation and separation which is already so strong in many spheres in Northern Ireland.<sup>171</sup>

4.19 Many interviewees however – particularly those from a nationalist/republican background – were sceptical, or hostile, to the concept of 'shared space'. Some preferred notions of 'neutral' or 'equal' space.<sup>172</sup> It was emphasised that until there was a definition of what 'shared space' is, it will likely create more difficulties than it resolves. There must therefore be efforts to build background consensus about the type of society desired, and an agreed value base to underpin the future regulation of parades. This must also address questions such as whether a society should accommodate the commemoration and memorialization of recent historical events or the role of individuals or groups in the conflict?<sup>173</sup>

4.20 Research for OFMDFM entitled the ‘Cost of Division’ (due to be published in May 2007) will seek to identify the costs of division in Northern Ireland which could be released by way of ‘a shared future gain’ to support sharing over separation. The debate over ‘shared future’ and ‘shared space’ in some ways epitomizes the crux of the debate between equality and rights.

4.21 CAJ have argued that:

The Shared Future initiative as presently constructed is misguided. It is extremely important to develop greater social cohesion in Northern Ireland, break down the historic legacy of segregation, and develop better community relations. This can however only be done on the basis of equality ... It is clear that the only way forward is for the current approach to Shared Future to be radically overhauled, and a new model adopted which actually puts equality and a rights-based approach at the heart of building relationships between the two communities.<sup>174</sup>

4.22 The question of how to move from segregation towards greater integration was explored in a report by John Darby and Colin Knox in 2004:<sup>175</sup>

3.5 Some consultees worried that these options were presented as mutually exclusive or presented as a false choice. ‘... the choice seems sometimes to be posed between the two extremes of a continuum from forced segregation to forced integration’. As one organisation argued ‘if this community is to be characterised as shared and pluralist, it is essential that there is tolerance for those who choose to live in single identity areas’. Hence, they argued that a shared and plural society does **not** necessarily result in a more integrated society and we must respect the views of those who do not want closer integration. One consultee asserted:

These should not be thought of as alternative futures but as overlapping realities. Northern Ireland is both segregated and integrated. A vision for the future that aims for total integration and the ending of segregation remains unrealistic. Instead, a vision for the future will aim to enhance integration and reduce segregation, while recognising that the latter will always be present.

3.6 This opinion represented an uncomplicated approval of tolerance which saw no contradiction in endorsing pluralist objectives while advocating a ban on marches,

sectarian graffiti, flags and painting of sidewalks. Others argued for ‘a shared and pluralist society’ with a clear appreciation of the possible tension and ambiguity between them. They urged respect for diversity but criticised its more extreme expression.

3.7 It was suggested that the two aims of *Shared Future* should be sequential: start with the present reality of divisions, find intermediate methods to accommodate them in a pluralist setting, but seek a long-term aim to move towards a shared society. Many urged a realistic timeframe to change expectations and policy aims. ‘We have to deal with present realities while working towards a shared future based on plurality. Dealing with current patterns is necessary maintenance work but it must be seen in process terms as that’.

4.23 A range of views were expressed when interviewees were asked about ‘shared future’ and ‘shared space’. It is useful simply to list some of these responses:

4.24 A selection of Nationalist/Republican views on ‘shared space’:

- ‘We believe in shared space in [ ]. There’s protestants go through this area day and daily.’ Similarly, a resident in another area stated: ‘It’s shared to travel to or from the city centre, it’s shared for emergency services, for shopping – but it’s not shared for a sectarian group to hold sectarian parades. With shared space comes shared responsibility, so how can we share space with organisations that refuse to consider talking to us.’<sup>180</sup>
- ‘For loyalists, the concept of shared space only applies when it’s in a nationalist or republican area. It’s a unilateral demand by one community.’<sup>181</sup>
- ‘See if UVF bands want to parade around [loyalist area] within those confines, they can do it every day of their lives. I don’t care. It doesn’t have any impact on my life.’<sup>182</sup>
- ‘Once you mention concepts like ‘shared future’ it doesn’t ring well with republicans and nationalists – it’s seen as a middle class unionist attempt to deal with the situation, to avoid ... identifying the problems and dealing with the problems. Because

unless we deal with the problems, we could all have an aspiration for a shared future, call it what you like, but it ain't going to happen.' 'It's a switch off for our community.'<sup>183</sup>

- Shared space 'requires a discussion around the management and nature of the event.'<sup>184</sup>
- 'My concept of shared future would be based on an equality agenda – and it's been totally disregarded in terms of 'Good relations'. Good relations are a product of this process. They can't be thrown in at the start, so I think the entire concept is flawed.'<sup>185</sup>
- Shared space is aspirational – but we can all aspire to the earth, the moon and the stars. We have to live and deal with what we have in the real world.'<sup>186</sup>
- 'For us, Orange culture and loyalism were one and the same because that was our experience. But we've begun to see that there's a difference. If you depoliticize the parades. We want to get to the stage where people say 'was there a parade up there last week?' So it's no longer an issue. So that people don't feel that they're being walked over, or their rights are being infringed, or that the other community's getting one over on them by having that parade. That's the situation that we aspire to, and I think that's similar to what other people would call shared space.'<sup>187</sup>
- In the words of one nationalist/republican councillor:

'It would be good, obviously – for example, you take [ ] town centre I think it should be a shared space. And it should be a shared space where I as a nationalist can celebrate my culture, whether it be on St. Patrick's day or it might be a republican type parade – and I have no difficulty with the Unionists or Loyalists doing it in the same way. But it has to be done really with respect and as long as it's done respectfully, I don't mind. It's just the way the loyalists use all these town centres, it's complete overkill – and it tends to be more overkill in terms of nationalist areas. But yes, I would like to see a situation ... As long as it's done respectfully from both traditions ... To me it's a way on down the road – we have to solve all these other problems first – and we've a whole minefield to go through. Probably some day we will get there, but it's a long way down

the road.'<sup>188</sup>

- In 2006, Sinn Fein produced a discussion document in relation to Lurgan Town Centre entitled 'Creating an Equal/Neutral Space'. The paper seeks to find ways to make Lurgan 'a place in which people can go about their normal everyday business without the fear of sectarian threat or harassment from any quarter. A town where people can live which is free from sectarian flags, symbols and emblems.' The document distinguishes between Loyal Order parades (about which there 'is a willingness by the nationalist and republican community to come to an accommodation'), Loyalist Band parades ('which should take place away from ... the town centre'), Republican parades, and Other parades. It argues for 'an intensive, meaningful and genuine process of dialogue.' Furthermore, the document proposes that 'An agreed package is what is required' as 'there is little point in trying to deal with each issue as separate' It suggested a number of initiatives, including:
  - Recognition that Loyal Order parades to the Church of Ireland and to the Cenotaph for important anniversaries such as the Somme should proceed with community agreement and without nationalist protest. This would require the Loyal Orders to enter into a process of dialogue with local nationalists and vice versa.
  - In reciprocation, Loyal Orders would voluntarily reroute other parades from the lower end of the town centre.
  - The removal of all unionist paramilitary flags from Loyal Order parades proceeding to either the Church or Cenotaph.
  - Loyalist band parades restricted from parading past Carnegie Street and into the lower part of the town.

#### 4.25 A selection of Unionist/Loyalist views on 'shared space':

- 'If you say you are prepared to share this space with your neighbour, then you should let them commemorate their traditions.'<sup>176</sup>
- 'It is not "a nationalist street" – it is "a public thoroughfare" upon which the right to assemble – if I were to be dogmatic and pig-headed enough to exercise it – exists.'<sup>177</sup>

- ‘If town centres, for example, are designated as shared space, then there is the danger that other areas would be designated as not shared space.’<sup>178</sup>
- [...] Orange Lodge approached the Catholic parish, which has approximately 150 parishioners, through an intermediary and asked the community to support its proposal for a new Orange Hall. As one observer noted, ‘One idea of the projects is to open up places that maybe have been seen in the last 30 or 35 years as exclusive places but are now seen as somewhere to share. If they are a church or Orange Hall it is not about denying their history. The hall can be used for those things and can still be used as shared community space.’<sup>179</sup>

#### 4.26 Other views

- Some interviewees argued that any arterial route should be deemed to be shared space, while others noted difficulties in distinguishing between arterial routes and residential areas (citing the examples of the Garvaghy Road, Cregagh Road, and Springfield Road which were stated to be arterial routes but also residential). Others stated that we are early on in the shared future process but that it is still important to articulate the endgame:
  - ‘This should be a situation where neither community is intimidated by the other’s culture.’
  - Co-operation in developing play spaces and facilities for cross-community activities. Shared space has to be pushed beyond parading to going to the shops, playing fields, to be able to walk back without feeling intimidated.
  - ‘Before you reach a position of shared space, there has to be a step of ‘negotiated space’.
  - ‘Shared space is a dimension of shared future. It doesn’t mean that all space has to be shared’.
  - One example given of how ‘shared space’ had been reflected in a local agreement was bands agreeing not to end their parade in the centre of the town.

## Responsibilities & Event Management

- 4.27 Building on the discussion at paras. 2.27-2.34 above in relation to development work and marshal training, one interviewee noted that some bands have established sub-committees to examine their responsibilities and take responsibility for behaviour. Another interviewee argued that those wishing to parade – particularly organisers of large events – should undertake a full risk assessment beforehand, possibly in conjunction with statutory agencies.
- 4.28 The idea of a statutory Code of Conduct was first considered by the 1970 *Joint Working Party on Processions etc.*, but was not introduced under the subsequent *Public Order (Amendment) Act (Northern Ireland) 1971*. Such a Code, though, is required by section 3 of the *Public Processions (NI) Act 1998*, which provides for the Parades Commission to issue a Code of Conduct ‘(a) providing guidance to persons organising a public procession or protest meeting; and (b) regulating the conduct of persons organising or taking part in a public procession or protest meeting.’
- 4.29 A number of interviewees argued that the language of the Commission’s Code was too much focused on ‘Orange and Green’ and so cannot be easily applied to all types of parading – ‘lewd’ for example means something different to an Orangeman than it might in the context of a Gay Pride parade.<sup>189</sup> One interviewee argued that there is a need to develop a catalogue of flags distinguishing between those that are legal and illegal, and those which might raise legitimate rights concerns. Some stated that it would be vitally important for there to be consultation with parading organizations if a new Code of Conduct were to be drafted. In this context, the Ulster Bands Association pointed to its own Code of Conduct.<sup>190</sup>

- 1) All Association bands and their respective members shall not, even when provoked, engage in any action that shames or disgraces their band or the Association.
- 2) All Association bands and their respective members shall at all times promote a sense of unity and friendship towards fellow member bands.
- 3) No Association band shall have their colour party dressed in paramilitary garb (ie. combats and bomber jackets) while on parade.
- 4) On arrival for parade no Association bandmember should leave the mode of transport carrying any alcoholic beverages.
- 5) No Association bandmember shall be seen to be urinating in a public place.
- 6) All Association bands whose parades are due to start at a specific time should ensure that it is advertised as such. Likewise, if their parade is advertised to start at a specific time, Association bands should ensure that it does so.
- 7) Always treat your host with the respect that you would expect to receive yourself.

If you would like to walk before the main parade has started in order to fulfil another commitment elsewhere ALWAYS seek permission to do so from your host.

Never parade without prior permission from the host. If it is not permissible or practical to parade early, then either wait for the appointed time or leave the parade and go to the subsequent parade. We suggest if the latter applies then a suitable donation be given to the organising band.

Always complete the entire parade route – take no ‘short cuts’ without the prior permission of the organising band.

**4.30** It was also highlighted that a Code of Conduct is of little use if it is not monitored and enforced (see further Procedures – Monitoring, paras 4.60 - 4.61 below).

## Transparency

**4.31** It was argued by all those from parading organisations, by some residents, and also by a number of other interviewees that there was a lack of transparency in the Commission’s work. In the words of one submission:

‘Before a decision is made restricting this freedom, the public authorities must acknowledge the right of the public procession organiser to have the opportunity to access all the information, views, representations and advice they have received. The public procession organiser would then be able to challenge the information and submissions received by the public authorities before a final decision is made.’

Many further argued that greater clarity is needed around the weight attached to information provided by the PSNI to the Commission.

### Rule 3.3 of the Parades Commission’s Procedural Rules:

3.3 All evidence provided to the Commission, both oral and written, will be treated as confidential and only for the use of the Commission, those employed by the Commission and Authorised Officers. The Commission, however, reserves the right to express unattributed general views heard in evidence but only as part of an explanation of its decision.

**4.32** It was stated that Rule 3.3 of the Commission’s Procedural Rules (see above) places parties to the dispute at a substantial disadvantage on four accounts. The rule:

- prevents organisers from taking appropriate action to address any relevant concerns of others with a view to reaching a satisfactory accommodation and avoiding an imposed determination;
- inhibits parties from influencing the outcome of the Commission’s initial decision;
- prevents parties from assessing the prospects of being granted a review; and
- disadvantages them in the subsequent presentation of any review.

**4.33** One interviewee argued that it is quite proper for the Commission to receive and act on confidential information. While it should release as much of its thinking and data as possible into the public domain, it should never do so at the expense of the safety of any person who has engaged with it.<sup>191</sup>

**4.34** Many interviewees welcomed the House of Lords judgment in *Tweed v Parades Commission for Northern Ireland* (2006).<sup>192</sup> Lord Justice Bingham stated:

In the present case, Mr Tweed has obtained leave to apply for judicial review on grounds which include a challenge to the proportionality of the Commission's interference with his claimed Convention rights. The Commission's deponent has summarised five documents which Mr Tweed wishes to see.<sup>193</sup>

I would order that the five documents in question be disclosed by the Commission, in the first instance to the judge alone. He will assess whether the documents appear to record information imparted in confidence by identified informants. If not, he is likely to order disclosure to Mr Tweed, since there will be no reason not to do so. If they do appear to disclose such information, he must consider whether the documents add anything of value to the summaries in the evidence. If not, that will be the end of the matter. If he judges that they do add something of value to the summaries, he will move on to consider the submissions of the parties on redaction and, if raised, public interest immunity.

## Procedures

### Notification<sup>194</sup>

**4.35** Some interviewees suggested that it is too easy to organize a parade:

'All you have to do is put in your 11/1 with 45 bands listed. You don't have to write to the Council or anything, no risk assessment is required, you don't have to ensure adequate toilet facilities. Even on the day of the event, it doesn't really matter if you start the parade late, or if some participants are only arriving when the parade is due to end.'<sup>195</sup>

Others took issue with the apparent ease with which parade related protests were sometimes organised 'so as to make a parade contentious' and then simply

withdrawn (possibly after restrictions have been imposed on the parade).

**4.36** One problem identified by several consultees is the temptation for organisers to exaggerate the potential size of a parade in order to ensure they will be legally covered:

'You have to name each band on the 11/1 form. If a band arrives that wasn't listed, then there will be an issue, whereas if bands don't turn up that were notified then there's no problem.'<sup>196</sup>

This has obvious implications for police planning, and for the decision making process itself.

**4.37** Some interviewees suggested that the requirement (in s.6(1) of the *Public Processions Act*) of having to submit the 11/1 'at the police station nearest to the proposed starting place of that procession' created unnecessary inconvenience for many parade organisers. The possibility of electronic-notification was also raised.

**4.38** Other interviewees – particularly those from parading organisations – stated that the current notification forms are unnecessarily cumbersome:

'The 11/1 requires far too much information for the vast majority of parades. It's placing an unnecessary burden on the secretaries and the people that organise the parades. I mean, 95% parades are non-contentious in any way and should not require the amount of information that's required on the 11/1. The form is too complex – far too complex.'<sup>197</sup>

**4.39** On this point, one consultee highlighted the importance of the doctrine of 'proportionality', drawing the following conclusion:

Persons wishing to exercise their Article 11 right should be subject to no more onerous procedures than are necessary to satisfy the interests referred to in Article 11(2). Thus, it is questionable whether the same amount of detail and notice ought to be required of applicants in relation to wholly non-contentious events, such as vintage car rallies, as is required in relation to those parades or protests where there is good reason to anticipate public order issues. There are, of course, traffic and other policing reasons why it may be desirable to require



notice of non-contentious events, but that does not necessarily need to remain within the remit of the Commission.

Consideration might be given to ‘scheduling out’ certain classes of events, and, over time, applying a much lighter touch to the regulation of what ought to be an increasing proportion of smaller, non-contentious annual parades where it is abundantly clear that no trouble or major traffic disruption is likely ... It would be improper for the state to impose an increased degree of regulation on public events where no real public order or other Art. 11(2) criteria are present i.e. the process should be evidence-based “scheduling in” rather than imposing any obligation on the organisers to show why their event should be “scheduled out”. In the same way, annual parades (etc.) that fall within defined criteria as being “potentially contentious” could go into or remain in PC-type processes until two or three ‘editions’ have passed off without problems, and these could then slide down the scale.<sup>198</sup>

## Post-notification filtering / Triggers for further action

**4.40** It can be inferred from Table 3 (Monthly breakdown of public processions per town/city in 2006) that there is no necessary correlation (at present) between the volume of parades in an area and the degree of contention. Often too, parades deemed contentious will proceed without restriction. It is also worth noting that while the existence of a notified protest will usually result in a parade being flagged as contentious, that is not necessarily the case.

**4.41** A number of issues were raised in relation to who takes decisions about what is ‘contentious’ and ‘non-contentious’, and on what basis such decisions are reached. These raise critical issues for the Strategic Review Body (not least of all in relation to the structures that might be necessary to process all notified events). The following (overlapping) questions were raised in the course of interviews:

- Should there be such a post-notification ‘filtering’ process at all (noting, for example, the suggestions above in relation to pre-notification filtering)?
- Should notice exemptions be granted to certain groups? If so, on what basis?<sup>199</sup>

- Should local people be informed that a parade is being organised? If so, how? It was suggested by some that advertising forthcoming events would merely create problems and become a ‘factory of grievances’.
- How then might concerns about a parade be identified, or (possibly) corroborated?
- Is it not possible for a parade still to be ‘contentious’ even though no objections have been expressed? If so, what are the implications of this for the nature of the assessment required at this stage?
- Is it right that ‘single objections’ can result in a parade being designated as contentious?
- Should ‘contention’ be broader than violence or the threat of violence (whether attributable to actions of paraders or objectors)?
- What is the threshold of contention? Should, for example, parades be defined as ‘contentious’ only if valid rights claims are raised by the parties potentially affected?
- How might a broader assessment of the local context be made?
- How should business interests be factored in?
- What other actors might usefully contribute at this stage in the process?
- What ought to be the role of the police in deciding contention? One interviewee thought that:
 

‘If the police tick the box on the 11/9 indicating that it is sensitive, then that usually triggers the regulatory process. The police, though, may decide not to tick the box and rather simply police the event on the day in the hope that it will pass quietly.’
- Should the determining body be required to issue a decision in respect of every parade deemed contentious even if no restrictions are being imposed?

## Mediation and Pre-mediation

4.42 Many interviewees noted that there were few, if any, successful examples of pure mediation in relation to parade disputes. The Parades Commission was also variously criticized for being too slow in bringing the two parties together, and for attempting to do ‘side deals.’<sup>200</sup> One interviewee said that there was a suspicion amongst residents in his town that an offer by the Loyal Orders of mediated talks, communicated to the residents via the Parades Commission’s Authorised Officer, was just a ploy by the Commission to get through the summer – to get the residents to police their people and prevent violence.<sup>201</sup> Two further general points were made:

- Mediation is not necessarily an inherent part of any regulatory process – at least in any compulsory form. There is the potential for a ‘chill effect’ of a mediation process on the free exercise of the right to peaceful assembly;
- Not every situation is appropriate for mediation. Furthermore, there will be a continuing need for pre-mediative work (including capacity building with individual parties – promoting mediation and preparing people for using mediative language).

### Who should represent the protagonists?

4.43 Two interrelated points were made by interviewees regarding the mediation of parade disputes. First, that those who claim to be able to represent the residents or loyal orders must be able to deliver – it would not work, for example, if a unionist politician attempted a ‘solo run’ without authority from the Loyal Orders.<sup>202</sup> Second, any dialogue that takes place must be owned by local people as a local process.<sup>203</sup> The following quotations underscore these two points respectively:

‘At each tier [of talks] people need to be seen to be talking together – it cannot be hidden ... People must know that they are talking – that they are sitting round the table, and then the guys on the bottom must be prepared to talk and to make a deal. You can’t have people saying ‘we have to go back to our people.’<sup>204</sup>

‘You can have all the legislation in the world – but if you don’t

have the grassroots to implement that legislation, and the good will to follow it, it means nothing. On a local level you have to get the stakeholders involved. Unless and until – and this is the thing I feel very strongly about – we hear ... from the Loyal Orders telling us why they have to come up to the top of the town ... to give us an understanding of their side, and likewise. So that we can be there as rational people telling each other why we feel as we do feel – and unless and until that happens nothing is going to bloody change. And we want change.’<sup>205</sup>

### How should mediation best be facilitated?

4.44 The NIO’s consultation document, *Mediation Measures for Parades in Northern Ireland* (February 2005) set out a possible outline model for mediation. Ultimately, no conclusion or final report was published in relation to this consultation. It proposed the following conditions:

1. Mediation will be voluntary.
2. Mediators will be available to all involved in parades disputes and funded by NIO.
3. Some parades will have mediators appointed, who will proactively encourage mediation between all parties.
4. The mediator will structure the process and identify appropriate participants.
5. The Parades Commission will not participate in the mediation, nor receive a formal report. Participants could make representations to PC based on the mediation.
6. If mediation is successful, the Commission will not issue a determination

4.45 A number of interviewees suggested that neutrality and confidentiality were important in the design of any mediative process. Confidentiality issues are dealt with in this section, while those relating to neutrality are discussed in the ‘Structures’ section below.

4.46 Some interviewees thought it important that the arbitrator should not be informed of the substantive content of mediative discussions. The fear was that if parties thought the arbitrator was always ‘in the background’, they would merely enter mediation to secure a more favourable decision at arbitration (ie. to ‘tick boxes’ rather than genuinely seek an accommodation).

4.47 While it will usually be up to the parties themselves to

agree on the terms and ground rules of any meditative process, one suggestion was to draft in legislation a provision guaranteeing protection against the discovery of mediation communications.<sup>206</sup> It was argued that this could assist in rebuilding trust in the concept of mediation, and in creating a safe space for mediated dialogue in which parties would feel able to explore all possible options (rather than fearing that by exploring a particular option, they might later be held to it at the arbitration stage). It was likely for similar reasons that the North Report stated:

‘it would not be right to recommend that, as a matter of course, mediators should report to the Parades Commission on the progress of local discussions, as they could then be seen as an arm of the Parades Commission and thus lose effectiveness. They should, however, report success or failure within a set timescale.’<sup>207</sup>

A legislative guarantee of confidentiality would not, however, preclude the parties agreeing that a final report be passed to the arbitrator. Rather it would work as a ‘Chinese Wall’ providing some degree of separation between the mediation and arbitration processes.

**4.48** Nonetheless, in order to build trust in the process, consultees from different backgrounds emphasized the importance of fully and accurately minuting mediated discussions. In the words of one republican resident: ‘Everything would have to be minuted. Even if that slowed the pace, it must be done right.’<sup>208</sup> There was a fear that unless this was done, the other party might backtrack and the goalposts would shift. This argument implies that in the event of a mediation break down, the minutes *would* be disclosed. As stated by a member of the Loyal Orders:

You also have to have minutes taken of those meetings, and once those have been agreed to by both groupings, then I believe they have to be passed on to the Parades Commission, because how else can the Commission be aware of what’s actually taking place at those discussions ... If you’re going into a discussion with the hope of getting a parade at some stage, if those discussions break down at some point because of intransigence or because of the fact that these residents’ groups really don’t want any sort of an accommodation – all they really want is ‘No Orange Feet’ going down a particular street to

quote a phrase – the Parades Commission has to be made aware that here is a group that have genuinely tried to reach some form of accommodation.’<sup>209</sup>

**4.49** One interviewee described how he saw the ideal relationship between mediation and arbitration: ‘For the arbitration body to sponsor a mediation process, it should obtain a final report, agreed by all parties to the mediation. This might identify that the parties have agreed X and Y, but were unable to find common ground in relation to Z. The arbitration decision would then incorporate X and Y and impose a solution on Z.’<sup>210</sup>

### Incentives to engage?

**4.50** Residents in at least one area made the argument that ‘the loyalists were given no incentive to talk to nationalists because the previous year they got everything they wanted.’ A similar point, however, was made by the Loyal Orders, arguing that the Parades Commission has effectively provided a safety net for nationalists and republicans (in places like Portadown and Dunloy): Commission determinations are doing what the residents want and so there is no need for them to genuinely engage. In response to the question ‘how might the adjudicatory body encourage parties to enter into dialogue?’, one interviewee stated: ‘By making the right determinations, by enforcing those determinations, by defining what is shared space, by defining a paramilitary flag etc.’<sup>211</sup>

## Adjudication and Arbitration

**4.51** In the words of one consultee, ‘Recent experience has shown that dialogue can be decisive in reaching accommodation on issues concerning parading. It is important, however, that a mechanism exists to resolve issues that prove intractable.’<sup>212</sup>

**4.52** The current Parades Commission has sought to provide a more detailed ‘Background’ section to its determinations, and this was recognised by some. Others argued that there is little apparent connection between the ‘Background’ and the ‘Consideration’ sections of determinations

**4.53** One submission from a parading organisation argued

that ‘It is often the uncertainty in the question of equality of representation that erodes the effect of the decision. It is possible that there are circumstances where the correct decision has been given for the correct reasons but unless we know and are satisfied that all material and significant factors are known by the Commission and have been considered by them, prior to the issuance of that decision, we cannot then place our unquestioning trust in that decision.’

**4.54** It was also argued that the Parades Commission ‘has been guilty of accepting complaints at face value without investigation or corroboration and has in the past issued determinations based upon this erroneous or mendacious information.’ A number of interviewees also stated that it was vital to identify the significance of the police role whatever may be the form of any independent regulatory board or tribunal.

**4.55** In relation to the timeline from notification through to arbitration, one interviewee stated ‘You put in your 11/1 and you hear absolutely nothing back’.<sup>213</sup> Others spoke of the difficulty of organising parades – sometimes sending out invitations a couple of months in advance, but then having to revise these after a determination imposes restrictions (for example on the start time) only five days prior to the event:

‘the determinations are too close to the actual parade. If there’s going to be a four week notice, then there’s no reason why they can’t give a three week determination.’<sup>214</sup>

## Review

**4.56** It was argued that there must be an adequate review procedure, which neither entails the expense of litigation, nor review by the same Commissioners responsible for taking the original decision. The issue of adequate review mechanisms also relates to that of transparency (see above at para.4.31): One submission stated that ‘The [Public Processions] Act authorises review only in the case of fresh evidence or representations. The secrecy surrounding the Commission’s decision making procedures and in particular what evidence it has received and from whom makes it difficult to assess exactly what is constituted by ‘fresh evidence.’”

## Liability & Sanctions

**4.57** It was argued that there should be greater consistency in the sanctions imposed by the Commission for breaches of its determinations or the Code of Conduct. The police too were criticized by interviewees for not prosecuting breaches with sufficient rigour. The point was also made that the police and magistrates should seek to avoid giving young people a criminal record merely because of isolated incidents relating to parades where those on parade were not equally held to account.

**4.58** A number of interviewees stated that it would be improper to hold organisers liable for the genuinely unforeseen actions of others. For example, bands, it was argued, should not be held liable for the actions of supporters: ‘If the rationale underpinning the regulatory framework is to bring those involved in parading into line, then it is reasonable for an organiser to advise participants, but this should not be extended to supporters.’<sup>215</sup>

**4.59** It was stated on several occasions that any problems should be brought to the attention of the organizer on the day of the event, not left until the next parade has been notified.

## Monitoring

**4.60** In the context of discussing the apparent lack of action taken against the wearing of paramilitary uniforms or holding illegal parades, it was stated: ‘One of the things that all the Loyal Orders feel strongly about is that the legal system is being used against us in a discriminatory way. The law is not being applied fairly in this country – we are being picked on, and the Parades Commission – the monitors who are monitoring parades are reporting things to the police afterwards – very tiny minor breaches – and that’s leading to a breakdown between the police and our community.’<sup>216</sup>

**4.61** At least three interviewees commented on the Parades Commission’s deployment of monitors. The first argument raised was that there is insufficient monitoring carried out (although some interviewees questioned why there should be monitoring at all).

The second issue raised was that monitors appear only to be sent to the most ‘contentious’ parades. One interviewee spoke of notified parades against which no action had been taken but at which participants were dressed in paramilitary uniform: ‘no monitors were present so no further action was taken.’ It was thought that monitoring should extend beyond the most controversial parades – even, another interviewee suggested, to parades where no objections had been raised. In this sense, monitoring could play an important role in the initial assessment of what is and what is not ‘contentious’, and in highlighting examples of good practice.

## Structures

**4.62** It was accepted by almost all interviewees that there needs to be some sort of regulatory machinery to deal with parades. Indeed, a number of interviewees emphatically stated that change to the existing structures for regulating parades and related protests should not be made unless the case for change is overwhelming. Others argued that such a case would be established if new principles and procedures agreed by the Review Body required structural revisions in order to be implemented.

## Mediation and Pre-mediation

**4.63** The role of the Parades Commission’s Authorized Officers (AOs) has recently been changed. Their role no longer expressly includes mediation, and applicants for the posts are not required to have mediative experience. Some felt strongly that this was a retrograde step – that even if the AOs are not formally mediating, their role inevitably requires mediative skills. Furthermore, by reducing the number of AOs from 12 (notionally) to just 6, ‘we will lose a lot of experience – 10 years of work and relationships. So much trust that has been built up over that time.’

**4.64** One interviewee stated:

‘I think the Authorised Officer is still an important person, but I think their role is to build up confidence – probably especially within the loyal orders, because they’re the people who lack the confidence to enter discussion and dialogue – simply because no-one joined those organisations to enter dialogue and discussion with those people opposed to our organisations, and our culture and traditions. So therefore, I think the role of the AO is to encourage, and help and assist the confidence of the loyal order membership to go in and confront their enemies and stand up for their rights and traditions. I think then, that once 2-3 people in the Loyal Orders decide to go into dialogue, they have to be satisfied with who is chairing those discussions. I mean, both sides have to be happy. So the AO can help find suitable chairpersons.’<sup>217</sup>

**4.65** Other respondents questioned the influence of the Authorised Officers – ‘What sort of clout do they have on the Commission? Is their job just writing-in reports?’ And again:

‘I’m not sure whether these guys who are on the ground are doing their job and the Commission is not listening to them, or that nobody is doing their job. To be charitable, we’ll say right – that they are doing their job, and they’re writing in reports – and they tell us they are writing in reports – but they’re not being listened to. The reports are binned.’<sup>218</sup>

**4.66** One of the key questions regarding ‘structures’ and processes of mediation is that of who should be regarded as an appropriate mediator, and what connections, if any, should mediators have to the adjudication body? This was partially addressed in the section on ‘Procedures’ (paras 4.42 - 4.50).

**4.67** It was stated by some interviewees that mediators wholly external to the arbitration body can help, but ‘it’s not a one size fits all type solution.’ The potential positive role of business and church leaders in assisting mediation was also acknowledged by several interviewees. Some argued, however, that the difficulty of politicians being involved in mediation is that stakeholders don’t want the centre-ground parties to be seen to broker a deal. There were similar fears that external mediators might take the kudos for any agreement reached rather than appropriately acknowledging the local actors who have been doing

the long-term work on the ground (such as the Interface Mobile Phone Networks). This related to a more general point, widely expressed, that the degree of voluntarism – on all sides – is undervalued.

**4.68** It was argued that some protagonists are more likely to engage with local councils, police, businesses etc if they do not feel that they are being judged on their efforts. Local fora provide one means of facilitating such dialogue.<sup>219</sup> These also potentially serve to broaden participation in talks processes (including, for example, church and business leaders) thereby creating a problem-solving ethos rather than a combative duel between two protagonists. One parading organisation stated in its submission:

‘There can be no doubt that genuine community forums free from ulterior motives of political pressure and paramilitary involvement would have a significant part to play in problem resolution. However this was an area that the Act empowered the Parades Commission to employ but for some reason they declined to do so. An ideal example that could have been utilised is the Community Relations Council.’

**4.69** Several interviewees though noted that issues around parading have often been deliberately excluded from these fora because the fallout generated by parade disputes has had the potential to seriously undermine other work and relationships (see also above at para.3.14). For example the NIHE’s Housing Community Network (which comprises approximately 600 community associations) has on occasion dealt with flag related issues, but there has always been a fear that parades would overshadow all other work. So there are risks to ongoing work of pushing parades onto other bodies.<sup>220</sup> Several interviewees stressed the importance of timing in introducing any reforms. ‘The timing has to be right from the view of civic leadership’.

## Arbitration

**4.70** Essentially four broad options exist for an arbitration body – civic, police, legal (including an Ombudsman) or political. It was accepted by most interviewees that it would be unhelpful for the decision making powers to be returned to the police (not least of all because

this option was not favoured by the police themselves). It was also stated that whatever body is set up should work in partnership with other agencies – including the Northern Ireland Human Rights Commission, Community Relations Council,<sup>221</sup> and Northern Ireland Housing Executive.<sup>222</sup>

**4.71** One interviewee from a republican background stated:

‘In some senses, it’s academic who makes the decision. It has to be sorted out between ourselves and our fellow townspeople at a local level. In the absence of agreement, it doesn’t make any difference whether we were getting beaten off the road by the police on the basis of a decision they had made, or the Secretary of State had made, or the Parades Commission. I suppose that’s the way a lot of Republicans would look at it – we wouldn’t be hung up on who makes the decision.’<sup>223</sup>

**4.72** Those in favour of local politicians being tasked with the decision making role argued that because parading was primarily a political problem, it required a political solution. It was suggested, therefore, that following the devolution of policing and justice powers:<sup>224</sup>

‘...membership of the Parades Commission should not be a political award of the Secretary of State but the Commissioners should be elected by and from our elected representatives to the Assembly and should fairly represent the composition of our community.’

**4.73** One written submission stated that:

‘Whilst recognising that parades will encompass and affect all communities, the Strategic Review must find that an elected body must be set up to deal with parading, representing all communities and to whom all can relate.’

**4.74** Others were sceptical of the idea of a cross-party grouping in the Assembly: ‘There will have to be unsavoury decisions made, and politicians will inevitably recoil from making decisions not supported by their voters.’ ‘It’ll be green versus green to see who can be the greener party.’

**4.75** Some interviewees also argued against local councils having a decision making role: ‘It would be detrimental to parading if councils had a major say on

parades. Obviously it would depend on the makeup of the Council.’ Moreover, the fears expressed by some members of the Loyal Orders that they may be subject to a majority nationalist/republican council were heightened rather than diminished by the prospect of the Review of Public Administration (RPA).<sup>225</sup> One member of the Loyal Orders stated:

We have deep reservations about councils being involved. Reservations about RPA full-stop. ‘I would have grave reservations because once a council got the smallest input into parades issues, they would be looking for more ... I would have major concerns – I would be totally in complete disagreement with councils having any role whatsoever to play in parades, no matter how small a role it is, I would be totally against that.’<sup>226</sup>

**4.76** Even if Councils were not charged with taking decisions about public assemblies, it was suggested that local Councils might usefully play a number of further roles falling within their duty to promote equality of opportunity (s.75(1) Northern Ireland Act 1998) and good relations (s.75(2) Northern Ireland Act 1998).<sup>227</sup> One interviewee argued that:

‘If the Order is trying to say that these are cultural events, and that parading benefits tourism and the local area etc etc, well then they need to sit down and actually talk with the tourism people. But you’re only going to have that if there’s a forum to make it possible. It’s a role for the Councils to facilitate this under good relations.’<sup>228</sup>

Moreover, a recent report prepared for Belfast City Council by Dr. Dominic Bryan and Dr. Neil Jarman,<sup>229</sup> identifies ten different roles which the Council might play:

- 1) Mediator
- 2) Facilitator
- 3) Developing partnerships with other statutory agencies
- 4) Individual Councillors using their ‘good offices’
- 5) Funding educational initiatives
- 6) Licensing, Health and Safety, and Risk Assessment
- 7) ‘Allied’ work around bonfires, murals etc
- 8) Defining ‘shared space’
- 9) Provision of shared events
- 10) Exploring future options

**4.77** One submission received from a protestant/unionist group argued for a single public authority in charge of public assemblies - ‘a Freedom of Peaceful Assembly Commission, the “Freedom PAC”’. A member of the Loyal Orders argued:

‘There has to be some form of independent body, separate and divorced from politics and councils. What we need is more clarity in how they come to those decisions. We need to know how if someone is opposed to our parade, how we can fix our parade so it becomes acceptable to that community. A community can’t come out and say ‘we’re opposed to that parade, and if you allow it down this street then there’ll be a riot’. It has to be that those people who go in genuinely to try and reach an accommodation – those people have to be given some recognition for what they have done. I think yes the Parades Commission – maybe with a wee bit of tweaking, and altering, maybe with a new name, but basically the same idea.’<sup>230</sup>

**4.78** One interviewee noted (in their response to the Quigley proposals) that ‘We would be extremely concerned if Peach/Nolan procedures were to be used in the appointments process. We should seek to construct a process that would provide a lesser role for the Northern Ireland Office and a greater one for those more representative of our community ... It is essential that membership of the Board should be representative of the broad community. As already stated, the use of Peach/Nolan procedures should be considered inappropriate. Membership should include all levels of the social and economic community.’<sup>231</sup>

**4.79** While the post of Secretary to the Commission is publicly advertised, some interviewees further suggested that the Secretariat should not be seconded from the NIO, but also advertised publicly. There were some benefits highlighted for the Secretariat being drawn from the Civil Service. One practical benefit is that the Commission’s finances are channelled through the NIO’s Financial Services Division, and if the secretariat were to be non-NIO, the body would likely also need its own finance department.

## Role and Remit of the Arbitration Body

4.80 For some, the remit of the Parades Commission was too narrowly framed in the first instance. Brendan Murtagh, for example, argued that:

... by focusing on the parades issue specifically, the scope of the inquiry is limited to only one of a number of related manifestations of territoriality... An opportunity was perhaps missed when, instead of commissioning a single issue review, a government supported standing commission on territory was not constituted to review all aspects of territory, its impact on community relations and the potential role played by a wide range of policy actors... Such a commission, could embrace a wider set of interests than the parades review body and could undertake further analysis of the issues and relationships between territorial behaviour, its consequences for communities and possibly agreed principles about the use of, and respect for, group territory.<sup>232</sup>

4.81 Members of the Loyal Orders questioned ‘Why are parades singled out for special attention? Orange culture should not be singled out for special attention as is the modus operandi of the Parades Commission. All public events should adhere to an agreed value base and be regulated for equally ... There is another side of community life which is outside the legislation.’<sup>233</sup>

4.82 This implies that all public assemblies (including events such as Fleadheanna Cheoil and the Lamas Fair) would be brought within the jurisdiction of a single body. While the Public Processions (Amendment) (NI) Order 2005 extended the powers of the Parades Commission to cover parade related protests and parades supporters, open-air public meetings remain under the jurisdiction of the police and the Public Order (NI) Order 1987.

4.83 Others, though, thought that extending the arbitration body’s role in this way was ‘solving a problem that doesn’t exist.’ ‘The ‘static’ events are so distinct in nature from the normal concept of parading, and this from the issues that Parliament had in mind when legislating, that they ought not to come within the same legal framework.’

4.84 Finally, given the importance of outreach, education, development and support (see generally chapters 2 and 3 above), several consultees suggested that it will be important for the body tasked with taking decisions also to have duty (as it is currently framed) ‘to promote greater understanding by the general public of issues concerning public processions.’

## Methodologies that the Review Body might consider using in its work

4.85 Interviewees agreed that the Review Body itself must consult widely with key stakeholders. There was, however, a degree of scepticism in relation to public attitude surveys. Not only do they depend on *what* you ask, and *who* you ask it to, but (in the words of one interviewee) the purpose of such research is always designed to give ‘a veneer of legitimacy to preordained conclusions.’

4.86 The North Review utilized twelve public attitude surveys conducted by Research and Evaluation Services (RES) on aspects of the parades issue.<sup>234</sup>

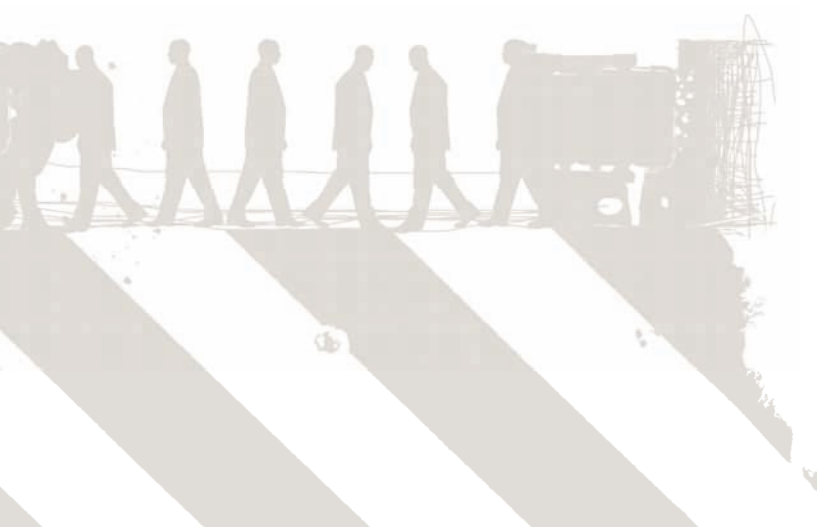
4.87 The Orr Review of Marches and Parades in Scotland conducted a telephone survey using Random Digit Dialling sampling landline numbers within each of the police force areas in Scotland. Quotas were set within each areas to achieve a sample broadly representative of the adult population in terms of sex, age and working status.<sup>235</sup>

4.88 Given the clear absence of background consensus on issues of ‘shared space’ and territoriality, this might be an issue around which questions could be asked of specific constituencies. Some relevant material is already available through the Northern Ireland Life and Times Survey.

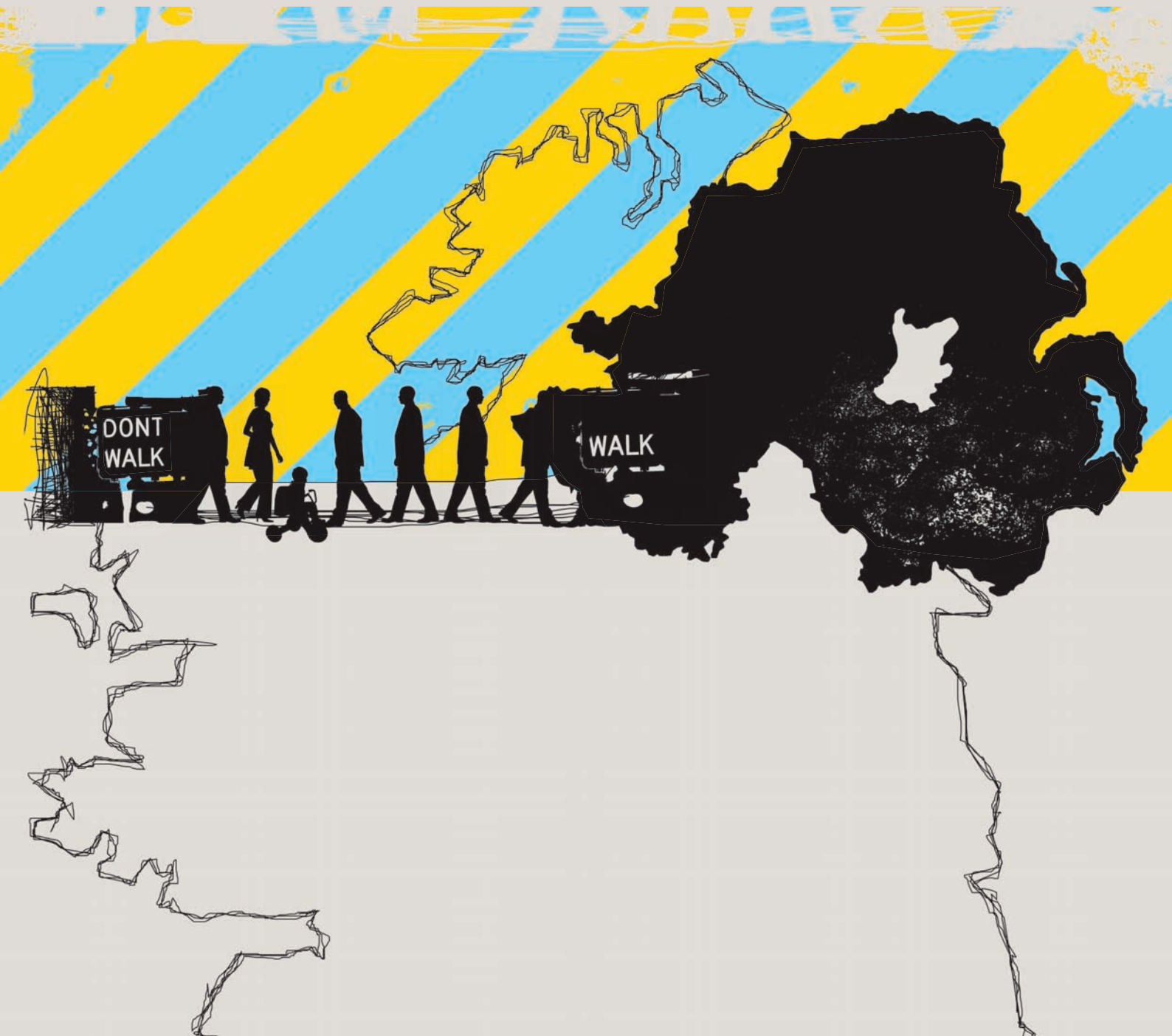
4.89 One more innovative method that might usefully be employed both to publicize, and roadtest the Review Body’s thinking (as possibly documented in an interim report) would be to convene and run a real-time case study on the basis of the principles, procedures and structures being proposed. This could follow the (oppositional) socratic style method where the arguments are played out with carefully selected



participants playing the roles of key stakeholders, and chaired by a suitable local media/TV personality. A studio audience could also be drawn from important constituencies such as youth (FE Colleges or Students' Union representatives for example) and business. One purpose of such an event would be to begin a public discussion about the underlying values and most appropriate interpretation of human rights principles.



# Appendices



# Appendix I

## Thematic bibliography

### Parading in Northern Ireland

- Bryan, D., *Orange Parades: Ritual Tradition and Control* (2000), London: Pluto Press.
- Bryan, D., Fraser, T.G., and Dunn, S., *Political Rituals: Loyalist Parades in Portadown* (1995), Coleraine: Centre for the Study of Conflict.
- Fraser, T.G., (ed) *The Irish Parading Tradition: Following the Drum* (1998), London; MacMillan Press.
- Garvaghy Road Residents, *Garvaghy: A Community Under Siege* (1999), Belfast: Beyond the Pale.
- Hughes, J., 'Community Relations in Northern Ireland: Lessons from Drumcree', *Journal of Ethnic and Migration Studies* (July 1998) Vol.24, No.3, pp. 433-450.
- Jarman, N., *Material Conflicts: Parades and Visual Displays in Northern Ireland* (1997), Oxford: Berg.
- Jarman, N., and Bryan, D.:
  - *Parades and Protest: A Discussion of Parading Disputes in Northern Ireland* (1995), Coleraine: Centre for the Study of Conflict.
  - *From Riots to Rights: Nationalist Parades in the North of Ireland* (1998), Coleraine: Centre for the Study of Conflict.
- Jarman, N., Bryan, D., Caleyron, N., and de Rosa, C. *Politics in Public: Freedom of Assembly and the Right to Protest* (1998), Democratic Dialogue.
- Lucy, G., *Stand-Off: Drumcree: July 1995 and 1996*. (1998), Lurgan: Ulster Society.
- Montgomery, G. and Whitten, R., *The Order on Parade* (1995), Grand Orange Lodge of Ireland.
- Ryder, C. and Kearney, V., *Drumcree: The Orange Order's Last Stand* (2001), Methuen, London.

### Parades Commission Documentation and Forms

- Parading in a Peaceful Northern Ireland, available online at [http://www.paradescommission.org/publications/PDF/PC\\_wayforward.pdf](http://www.paradescommission.org/publications/PDF/PC_wayforward.pdf)
- Statutory Documents – Guidelines, Procedural Rules, and Code of Conduct (amended June 2005)
- *Parade Organisers Guide*, available online at <http://www.paradescommission.org/publications/PDF/pull%20out%20section.pdf>
- Form 11/1 Notice of Intention to Organise a Public Procession
- Form 11/3 Notice of Intention to Organise a Related Protest Meeting

### Mediation and Related Processes

- Hamilton, M. and Bryan, D. 'Deepening Democracy? Dispute System Design and the Mediation of Contested Parades in Northern Ireland' (2006) *Ohio State Journal of Dispute Resolution*
- McAllister, B. (December 2000) *A Submission to the Northern Ireland Affairs Committee Concerning its Inquiry into the Parades Commission*.
- Kelly, G. (ed.), *Mediation in Practice* (1998), INCORE.
- Kelly, G. *Shared space, Shared problem: Local civic fora and intercommunal relations*. Democratic Dialogue (May 2004).
- Peace and Reconciliation Group Mediation Service – 'Consent to Mediate Form'

### The regulation of public assemblies in other jurisdictions

- Commonwealth Secretariat (2003) *Freedom of Expression, Association and Assembly: Best Practice*
- Gora, J.M., Goldberger, D., Stern, G.M. and Halperin, M.H., (1991) *The Right to Protest: The Basic ACLU Guide to Free Expression*
- Heyman, P.B. (ed.) *Towards Peaceful Protest in South Africa: Testimony of multinational panel regarding lawful control of demonstrations in the Republic of South Africa before the Commission of Inquiry regarding the prevention of public violence and intimidation*, HRSC Publishers (1992).
- Loudes, C. Handbook on *Observations of Pride Marches*, ILGA-Europe (June 2006)
- Orr, Sir John (2005) *Review of Marches and Parades in Scotland*
- OSCE/ODIHR *Guidelines on Freedom of Peaceful Assembly* (2007). Available online at [http://www.osce.org/publications/odihr/2007/03/23835\\_823\\_en.pdf](http://www.osce.org/publications/odihr/2007/03/23835_823_en.pdf)
- Murray, Lorraine, *Review of Marches and Parades: A Survey of the Views Across Scotland*. Scottish Executive Social Research (2005)
- Scottish Executive, *Review for Scottish Local Authorities: Guidance for Scottish Local Authorities* (2006).

### Event Management

- Bryan, D. and Jarman, N. *Independent Intervention: Monitoring the police, parades and public order*. Democratic Dialogue Report 12, August 1999.
- Jarman, N. and Bryan, D. *Stewarding Crowds and Managing Public Safety: Developing a Co-ordinated Policy for Northern Ireland*. (1998), Community Development Centre, North Belfast.
- Trade Justice Movement, *Risk Assessment for the Mass Lobby of Parliament*, London (June 2002)



## Human Rights

- Committee on the Administration of Justice (CAJ):
  - Submission to the Independent Review of Parades and Marches, October 1996;
  - *Commentary on 1996 Primary Inspection report by Her Majesty's Inspectorate of Constabulary with reference to the RUC*, March 1997;
  - *Policing the Police: A Report on the policing of events during the summer of 1997 in Northern Ireland*, November 1997;
  - *Comments on the Public Processions (NI) Bill*, November 1997;
  - *Response to the Guidelines Code of Practice and Procedural Rules issued by the Parades Commission*, February 1998;
  - *Commentary on Public Order Policing 1998*;
  - *Submission to the Progress Review of the work of the Parades Commission*, November 1999;
  - *Policing and Public Order in Northern Ireland 1996-2000: Some CAJ reflections*, May 2001;
  - *Submission to the Review of the Parades Commission being carried out by Sir George Quigley*, May 2002.
- Feldman, D.:
  - *Civil Liberties and Human Rights in England and Wales* (2nd Edition, 2002).
  - 'Privacy-related Rights and their Social Value' in Birks, P. (ed.), *Privacy and Loyalty*, Clarendon (1997), pp.15-50.
  - 'The Developing Scope of Article 8 of the European Convention on Human Rights' [1997] *EHRLR* 266.
  - Paper written for the Annual Public Law Society in Birmingham ^^^
- Feinberg, J., 'The Nature and Value of Rights' in Feinberg, J., *Rights, Justice and the Bounds of Liberty: Essays in Social Philosophy* (1980), Princeton University Press, Princeton.
- Fenwick, Helen, 'The Right to Protest, the Human Rights Act and the Margin of Appreciation' (1999) 62:4 *Modern Law Review* 491-514.
- Hadden, T. and Donnelly, A., *The Legal Control of Marches in Northern Ireland* (January 1997), Community Relations Council.
- Hamilton, M., Jarman, N., and Bryan, D. *Parades, Protests and Policing: A Human Rights Framework* (2001), Northern Ireland Human Rights Commission
- Hamilton, M. 'Freedom of Assembly, Consequential Harms and the Rule of Law: Liberty-Limiting Principles in the Context of Transition.' (2007) 27(1) *Oxford Journal of Legal Studies* 75-100.
- Parlevliet, M., 'Bridging the divide: Exploring the relationship between human rights and conflict management,' *Track Two*, Vol.11, No.1 March 2002, pp. 8-43. Available online at [http://ccrweb.ccr.uct.ac.za/two/11\\_1/bridging.html](http://ccrweb.ccr.uct.ac.za/two/11_1/bridging.html)
- *Submission by the Standing Advisory Commission on Human Rights (SACHR) to the Independent Review of Parades and Marches* (October 1996), pp. 185-200, Annex F, SACHR 22nd Annual Report, 1996-97.
- Starmer, K., *European Human Rights Law* (1999).
- Starmer, K. and Gordon, J., *Report on the Policing of the 12th July Ardoyne Parades 2004*, Northern Ireland Policing Board.
- Starmer, K., and Gordon, J. *Reports for the Policing Board regarding Ardoyne and Whiterock parades 2005*, Northern Ireland Policing Board.
- Whitty, N., Murphy, T., and Livingstone, S., *Civil Liberties Law: The Human Rights Act Era* (2001), Butterworths.

## Shared Future

- OFMDFM, *Good Relations Indicators Baseline Report* (January 2007) <http://www.ofmdfmi.gov.uk/good-relations-report.pdf>
- OFMDFM, *The Cost of Division* (forthcoming)

## Related Issues

- Bryson, L. and McCartney, C., *Clashing Symbols: A Report on the use of Flags, Anthems and other National Symbols in Northern Ireland* (1994), Belfast: Institute for Irish Studies.
- Kapur, R., Moore, B., and Webb, K., 'A Troubled Mind Afraid to talk: Group Therapy in N. Ireland' (2002), Threshold.

## Review of the Parades Commission

- Northern Ireland Affairs Committee, Second Report Session 2000-01, *The Parades Commission*, HC 120-II, Volumes I & II, and Session 2001-02, Supplementary Report.
- Northern Ireland Affairs Committee, Second Report, Session 2004-05.
- *Report of the Independent Review of Parades and Marches* (January 1997) (The North Report)
- House of Commons Research Paper 98/11, *Public Procession in Northern Ireland*, 11 January 1998 <http://www.parliament.uk/commons/lib/research/rp98/rp98-011.pdf>
- *Report of the Independent Review of the Parades Commission* (September 2002). Available at: <http://www.nio.gov.uk/press/quigreport.doc> (The Quigley Report)

# Appendix II

## Parades Commission Common Principles

With several years of experience in dealing with parades, the Commission wants people to have a sense of what it regards as important when it considers a parade notification and how it weighs up different situations. This represents a general approach, not a specific one. Each parade will still be assessed on its own merits. Issues sometimes arise that are difficult to predict in advance. However, it can help organisers, both of parades and of protests, when they are considering how they intend to conduct themselves. These Principles, most of which are matters of common sense, are designed to pick up on some of the most commonly asked questions about how the Commission weighs different circumstances pertaining to a parade and are intended to bring greater transparency to the debate. The Principles are not listed in any order of priority.

### Communication by Parade Organisers

Parade organisers who genuinely and meaningfully engage with representatives of local communities with a view to seeking accommodation will be much less likely to face restriction than those who do not. (This reinforces the statutory guidelines.)

### Communication by Representatives of Local Communities

Representatives of local communities who do not respond positively to parade organisers' attempts to engage, without pre-conditions, will be less likely to argue successfully for restrictions on a parade.

### Peaceful and Lawful Protest

Where protest has been previously organised in a peaceful and lawful way the Commission will be more sympathetic to concerns expressed.

### Volume of Parades

The more parades there are notified through a sensitive area in one year, the greater the likelihood of some restrictions. The cumulative effect of constant parading in one location imposes strains on community relations.

### Repeat Restrictions

In areas where there have been significant route restrictions for some years, the Commission will be more likely to allow an occasional relaxation of route restriction where the parade organiser has successfully ensured that those on parade and followers have consistently accepted the restriction peacefully and lawfully and especially where there have been some genuine and meaningful efforts to engage with the local community. annual report 2002-2003

### Timing of Parades

In contentious or sensitive locations, peaceful well-conducted parades in the morning are less likely to be restricted than evening parades. Parades that continue late into the evening, particularly after dark, often create problems and alienate local communities who may feel powerless to object. The Commission may increasingly place restrictions on these parades.

### Quality Parading

The likelihood of restriction will be greater where the parade or its followers have been badly behaved in the past, or where paramilitary emblems or trappings have been apparent. Where there is any doubt about an emblem, form of dress or other trappings, the parade organiser should seek to disallow it, particularly if the parade passes through an interface area.

### Public Disorder

The Commission will not automatically allow disorder or the threat of disorder to become the only factor in a decision, particularly when there has been genuine and meaningful engagement or attempts at engagement by the organisers. Occasionally, police advice to the Commission can become the main criterion (for example where there is an anticipated threat to life or property).

### Responsibility for a Parade

Responsibility for a parade and its participants lies first and foremost with the parade organiser. The parade organiser is responsible for ensuring a preplanned, well-organised and peaceful event that has little or no negative impact on the local community. A determination is primarily written for the attention of the parade organiser and it is the responsibility of the parade organiser to comply with it. The police have a critical role in upholding the law in and around the parade, particularly in ensuring that those who break the law are apprehended and brought to justice.

These Principles neither replace nor overrule the Code of Conduct or our Guidelines, both of which are available at every PSNI location where organisers hand in their parade or protest notifications. The Code of Conduct in particular needs to be carefully studied for the guidance it provides, not only on the conduct of parades, but also for the advice it gives to organisers on the preliminary steps they should take in communicating their plans to local communities in advance of a parade.

The context of the Principles we set out here will, we believe, increase transparency and enable organising bodies to review their plans and to consider whether they are more or less likely to meet with the approval of the Commission and of the local community. Nevertheless we remain anxious to increase transparency and will continue in that regard to build upon our experience.

# Appendix III

## Extract from the OSCE Guidelines on Freedom of Assembly<sup>236</sup>

### Six Guiding Principles

#### 1. Presumption in favour of holding assemblies.

As a fundamental right, freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation. Anything not expressly forbidden in law should be presumed to be permissible, and those wishing to assemble should not be required to obtain permission to do so. A presumption in favour of the freedom should be clearly and explicitly established in law.

#### 2. The state's duty to protect peaceful assembly.

It is the responsibility of the state to put in place adequate mechanisms and procedures to ensure that the freedom of assembly is enjoyed in practice and is not subject to unduly bureaucratic regulation.

#### 3. Legality.

Any restrictions imposed must have a formal basis in law. The law itself must be compatible with international human rights law, and it must be sufficiently precise to enable an individual to assess whether or not his or her conduct would be in breach of the law, and what the consequences of such breaches would likely be.

#### 4. Proportionality.

Any restrictions imposed on freedom of assembly must be proportional. The least intrusive means of achieving the legitimate objective being pursued by the authorities should always be given preference. The dispersal of assemblies may only be a measure of last resort. The principle of proportionality thus requires that authorities not routinely impose restrictions that would fundamentally alter the character of an event, such as routing marches through outlying areas of a city. The blanket application of legal restrictions tends to be overly inclusive and thus fails the proportionality test because no consideration is given to the specific circumstances of the case in question.

#### 5. Good administration.

The public should know which body is responsible for taking decisions about the regulation of freedom of assembly, and this must be clearly stated in law. The regulatory authority should ensure that the general public has adequate access to reliable information, and it should operate in an accessible and transparent manner.

#### 6. Non-discrimination.

- a. Freedom of peaceful assembly is to be enjoyed equally by everyone. In regulating freedom of assembly, the relevant authorities must not discriminate against any individual or group on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The freedom to organize and participate in public assemblies must be guaranteed to both individuals and corporate bodies; to members of minority and indigenous groups; to both nationals and non-nationals (including stateless persons, refugees, foreign nationals, asylum seekers, migrants, and tourists); to both women and men; and to persons without full legal capacity, including persons with mental illness.
- b. The law must recognize the child's right to participate in and organize peaceful assemblies. With due regard to the evolving capacity of the child, the right of children to organize an assembly may be subject to restrictions such as a certain minimum age for organizers or a requirement that the consent of their parents or legal guardians be obtained.
- c. Freedom of assembly of police or military personnel should not be restricted unless the reasons for the restriction are directly connected with their service duties, and only to the extent absolutely necessary in light of considerations of professional duty.

### Restrictions on Freedom of Assembly

#### Legitimate grounds for restriction.

Legitimate grounds for restriction are prescribed in universal and regional human rights instruments, and these should not be supplemented by additional grounds in domestic legislation.

#### Restrictions on time, place and manner.

A broad spectrum of possible restrictions that do not interfere with the message communicated are available to the regulatory authority. As a general rule, assemblies should be facilitated within sight and sound of their target audience.

# Appendix IV

## Background to the Public Processions (NI) Act 1998, issues raised by the Quigley Review, and responses to the Quigley Review

The report of the *Independent Review of Parades and Marches* was published in January 1997. The most significant recommendations made by the Review Team concerned the transfer of decision making powers in relation to parades from the Royal Ulster Constabulary (RUC) to an independent five member body whose members would 'have a geographical spread, and both cross-community and gender balance'<sup>237</sup> and the extension of the statutory criteria upon which those decisions must be based.

The Review Team's key recommendation was the establishment of the 'Parades Commission.'<sup>238</sup> This body would:

- allow interested parties to put their views forward about proposed parades,
  - encourage them to settle difficulties locally, and where that proved impossible,
  - itself to come to a view on what, if any, conditions should be imposed on contentious parades after an appropriately transparent process of examination of all the relevant issues against the background of reformed legal provisions.<sup>239</sup>
- d. Drawing upon the arrangements for dealing with contentious parades in South Africa (which emphasize the importance of wide involvement and prior negotiations)<sup>240</sup> the report recommended that the Commission 'should be free to take such steps as it thinks appropriate to obtain the views of all interested parties.'<sup>241</sup> While arguing that there may be occasions when the Commission felt it necessary to obtain views in confidence (because "intimidation and community pressures are realities in Northern Ireland")<sup>242</sup> the Review Team left open the possibility that the "Commission may, however, wish to have more than one group present at the same time, thereby allowing interested parties to hear the points others are making, both in order to understand their position better and to be able to take their views into account."<sup>243</sup>

Overall, 88% of respondents said that negotiated accommodation should be sought where there is a dispute between marchers and residents. There was broad agreement between Catholic and Protestant respondents, 97% of Catholics and 83% Protestants agreeing that negotiated accommodation should be sought in such circumstances.<sup>244</sup>

Given such overwhelming support for this approach, the Review Team attached a premium to the value of local negotiations, assisted, if appropriate, by third party mediators.

- b. The report also argued that it was doubtful "whether the Parades Commission itself would need to develop a professional mediation capability among its own staff. Rather it should develop a register of groups and individuals with expertise who can play a part in local discussions."<sup>245</sup>

Furthermore, despite recommending an extension of the statutory notification period from 7 days to 21 days,<sup>246</sup> the Review Team considered that because the 'Commission would also have the power, on its own initiative, to invite interested parties to enter into discussions with a view to reaching accommodation well ahead of the submission of an 11/1 form' that there was no 'necessity for a radically lengthened period of notice...'<sup>247</sup>

Finally, one of five critical success factors devised by the Review Team against which they sought to test their proposals was that 'any new arrangements should lead ... where practical, to achieving an accommodation for parades in individual locations *over a longer time frame*.'<sup>248</sup> It was, therefore, proposed that in order to improve the prospects for local agreement, the Parades Commission 'should take a broad overview of the number and nature of parades in a particular area, ideally on a timescale of a year or more, rather than just considering individual parades, one at a time. The latter is a recipe for maintaining a win-lose perspective.'<sup>249</sup>

- c. Stressing 'the need for statutory criteria which take a clearer account of the underlying rights and responsibilities of all concerned,'<sup>250</sup> the report recommended that the criteria themselves should be extended to include consideration of the 'impact of the parade on relationships within the community.'<sup>251</sup> The Review Team also emphasised that 'a Code of Conduct should be introduced covering the behaviour of both participants in a parade and of protesters' for this 'would buttress the right to peaceful assembly and evident respect for the views of others.'<sup>252</sup> Furthermore, because 'a code is of little value if it is not applied' the *North Report* recommended that the Parades Commission 'should be required to address the question of monitors',<sup>254</sup> and that in considering any parade proposal, the Commission should have regard to "any evidence of previous breaches of the Commission's or of an approved Code of Conduct, whether by participants or protesters."<sup>255</sup> It was also suggested that the Commission should "take steps to improve standards of stewarding in both parading and protesting organisations..."<sup>256</sup>

## Current Procedure

28 days advance notice for parades

14 days advance notice for related protest meetings

Determination to be issued 5 working days before date of parade

Possible review of Decision by Commission / Judicial Review

‘Those organising a parade are required to give notice to a police officer at the police station nearest to the proposed starting place of the parade, normally not less than 28 days before the date of the parade. This is done by completing the prescribed Form 11/1. The police are required to notify the Parades Commission of the proposed parade by completing prescribed Form 11/9 providing details about it including any relevant history. A person organising a related protest meeting with the intention of demonstrating opposition to a parade is required to give notice in an identical way normally no later than 14 days before the meeting. Notice must be given in the prescribed Form 11/3, and the police must send a copy to the Commission.’<sup>257</sup>

When reaching a determination, the Parades Commission must have regard to the five factors outlined in section 8(6) of the *Public Processions (NI) Act 1998* (and elaborated upon in the Commission’s statutory Guidelines document):

- (a) any public disorder or damage to property which may result from the procession;
- (b) any disruption to the life of the community which the procession may cause;
- (c) any impact which the procession may have on relationships within the community;
- (d) any failure of a person of a description specified in the guidelines to comply with the Code of Conduct (whether in relation to the procession in question or any related protest meeting or in relation to any previous procession or protest meeting); and
- (e) the desirability of allowing a procession customarily held along a particular route to be held along that route.

## The Quigley Review of the Public Processions (NI) Act 1998

Following discussions at Weston Park in July 2001, the British and Irish governments proposed a package of measures aimed at the full implementation of the Good Friday Agreement. In their document, they promised that:

17. In order to help create greater consensus on the parades issue and a less contentious environment in which the new police service will operate, the British Government will review the operation of the Parades Commission and the legislation under which it was established. The Government believes the Parades Commission has had four successful years of operation against a difficult background. But this review, which will take place in consultation with the parties and others with an interest including the Irish Government, will consider whether there are any changes which could promote further public confidence on all sides, respect for the rights of all and the peaceful resolution of disputes on parades. Any legislative changes would take effect after summer 2002.

Arguing that such criticism ‘in no way reflects on the work which the Commission has done’ and that its recommendations build ‘on the foundations laid by the Commission,’<sup>258</sup> the *Quigley Report* variously stated that:

### The overall process

- ‘[T]he annual cliffhanging over routes...raises tension as decisions on individual parades are awaited’ (para. 10.1(ix)).
- ‘So much of the Commission’s work is crammed into such a short period of the year immediately leading up to, and including the marching season...’ (para.15.12(iv)).

### The legislative criteria and Guidelines

- ‘The system of criteria by which the Commission takes its decisions is characterised by too much complexity and insufficient clarity. It is a compound of principles and factors from North, criteria on the face of the 1998 Act, the Commission’s own Guidelines and the ECHR. Revised Guidelines, having indicated the sources they were drawing on, could pull all this material together into more intelligible form, though it would be difficult to do this entirely satisfactorily in terms of the existing legislation.’ (para.15.12(i))



### The Commission's determinations

- '...difficulty has been experienced in classifying the factors germane to Determinations regarding parades.' (para.15.9)
- '...a determination...seldom distinguishes between the elements of 'prevention' and 'protection' as factors in its decision. Relatively rarely, a Determination will say explicitly that the rights and freedoms of others are not affected by the proposed march but does not necessarily say on what grounds this conclusion rests.' (para.15.11)
- 'Determinations seem primarily concerned to ensure that, if challenged, the Commission can be seen to have faithfully discharged its duty to have regard to everything to which it is obliged to have regard.' (para.15.12 (iii))

### The Transparency of the Commission's procedures

- 'Both sides allege lack of openness and transparency, with the Loyal Orders arguing that it is unjust that their membership is asked to defend their rights without knowing what evidence is presented that is so fundamental that those rights should be denied.' (Exec. Summary, para.46)
- 'The test of fairness cannot be fully met within the tight confidentiality constraints by which the Commission is bound by its Procedural Rules.' (Exec Summary, para.49)

### Facilitating mediation

- 'The difficulties associated with the current process can lead to mutual recrimination, as each side seeks to explain the failure to engage. There are accusations of unwillingness on one side or other to enter talks without preconditions and of agendas being too loose, too broad or too narrow. There are interminable arguments about process. An already tense situation risks becoming even more charged when even the machinery for alleviating it becomes a bone of contention.' (para.13.13)
- 'More could be done to explain why so much importance is attached to engagement.' (Para 13.20 (i))
- 'More could be done to demonstrate what it is believed is being achieved by engagement and thereby encourage increased effort.' (para.13.20(iv)).
- 'Given the charge of inconsistency...the Commission might also have made it clearer how it applies the engagement factor and why...the weight it has given to it or to particular manifestations of engagement may have differed from case to case.' (para.13.20(v)).

Ultimately, the government decided not to implement the main recommendations contained in the Quigley report. The Northern Ireland Affairs Select Committee, in its own review of the Parades Commission post-Quigley, summarised the views of key stakeholders as follows:<sup>259</sup>

"33. Many respondents stressed that sustaining the existing progress in defusing contentious parades depended on retaining the Parades Commission model. For example, the view of the Social Democratic and Labour Party (SDLP) was that:

"...the Parades Commission and its method of doing work has been broadly successful; as a consequence, during marching seasons and on acute marching routes things are better managed; we no longer have a situation in which the police are being relied upon to make judgments about parades on the grounds of public order...why put in jeopardy the evidence of success to the point where you could undermine that success."

34. The Committee on the Administration of Justice (CAJ) found the arguments deployed by Sir George Quigley in his report for dismantling the Parades Commission deeply unpersuasive: "we do not believe that Sir George has made a cogent argument for the radical over haul that he is proposing...the recommendations do not provide an acceptable building block for the future of parading in Northern Ireland, and risk exacerbating the situation." We also heard concerns that the report's recommendations were already out of date and did not apply in the current circumstances. For example, the Community Relations Council judged that "the position on parades from 2001 when he [Sir George Quigley] began is no longer the position on parades now; this is a moving picture". It rejected the view that the Commission had lost its credibility, argued that it was still evolving, and that undertaking radical reform now risked undermining that evolution and the progress made in developing a rights based approach to managing parades. The Council considered that the appropriate way forward was to tighten the Commission's existing procedures, rather than rebuild them. Democratic Dialogue was emphatic that the argument was not about abolishing the Commission but making it work better. The Garvaghy Road Residents Coalition considered that the Commission had "succeeded in changing the climate" of contentious marches. The Grand Orange Lodge believed that the changes proposed by Sir George Quigley would "make the thing worse still because it tends to offer a far more complex structure."

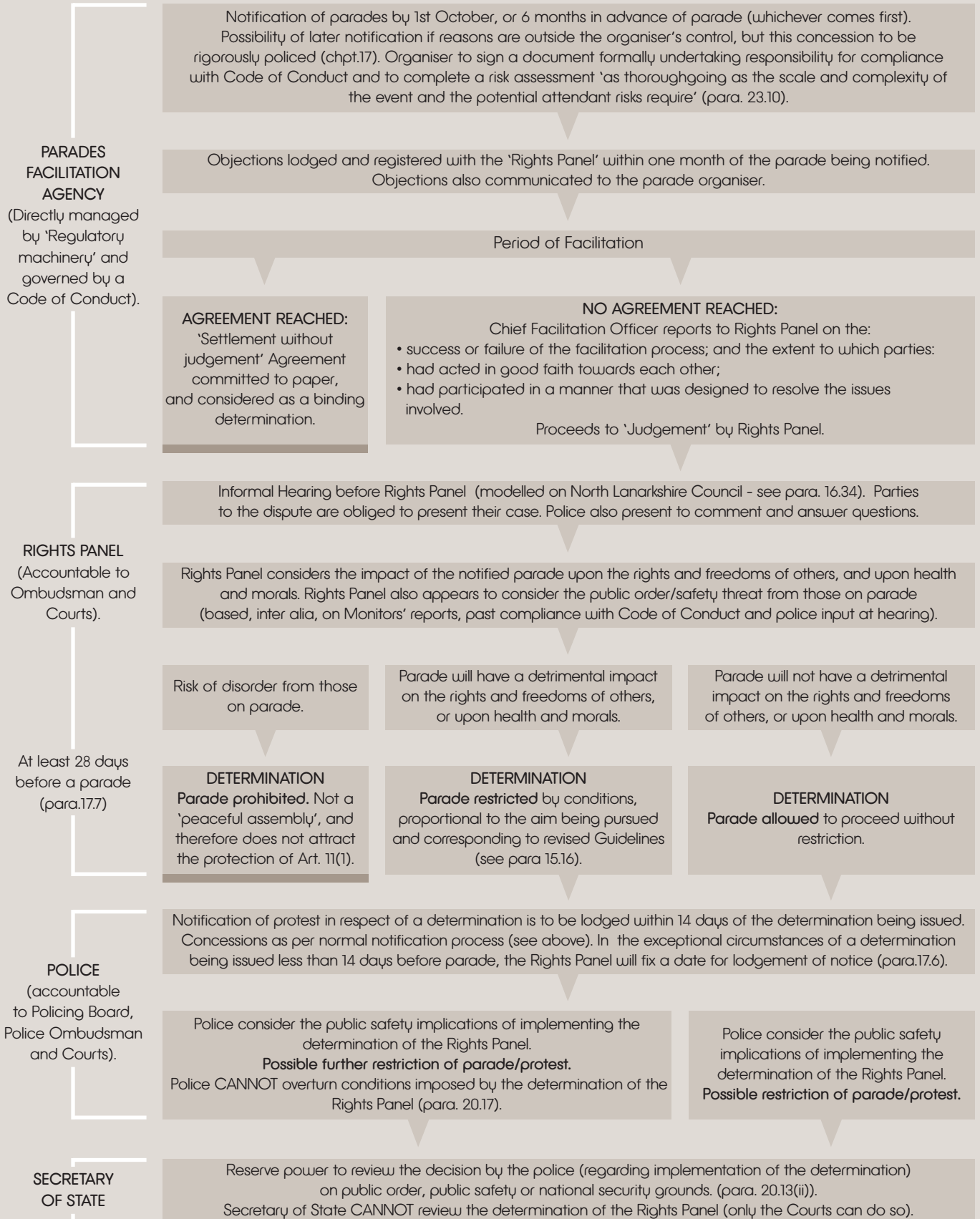
35. The Parades Commission questioned whether this was the right time to change the way in which parades disputes are managed because, in their view, Sir George Quigley's report was predicated on there being an open and cooperative relationship between the two communities which did not exist at present. When asked about the government's position on the model proposed by Sir George Quigley, the Minister, Mr Ian

Pearson, told us that, given the relatively peaceful marching season last year and the Parades Commission's "track record", it would think carefully before "dropping" a system that worked reasonably well "in favour of something that is untried and untested."

36. The evidence we received indicates that the work of the Parades Commission has been broadly successful in 'holding the ring' in contentious parades. Others have been involved in helping to ease the tensions surrounding parades, especially at local level, and this has been stressed by several of those who gave evidence to us. However, this does not detract from the Commission's contribution. Replacing the Commission with new organisational arrangements for which there is no broad consensus could undermine progress and place at serious risk the fragile stability which appears to have developed. The relative peacefulness of the 2003 and 2004 marching seasons is solid evidence that disputed parades are increasingly being resolved without recourse to violence. While the achievements to date should not be overestimated, we believe that the Parades Commission has made encouraging progress, and that retaining it offers the best hope for developing the peaceful resolution of disputes."

# Appendix V

## Outline of the pre-parade procedure recommended by the Quigley Review



# Endnotes

- <sup>1</sup> <http://www.nio.gov.uk/media-detail.htm?newsID=14064>
- <sup>2</sup> North, P., Crilly, O. and Dunlop, J. (1997) *Report of the Independent Review of Parades and Marches* (hereinafter, *the North Report*). Belfast: The Stationery Office, at 158, para.12.94.
- <sup>3</sup> The first of these was an internal review conducted by the Northern Ireland Office (NIO). This was conducted between early November 1999 and late January 2000. The second was an inquiry by the Northern Ireland Affairs Select Committee, which was launched in March 2000, and reported in May 2001 (Northern Ireland Affairs Committee, *Second Report: The Parades Commission*, 2000-1, HC 120-II). The third was an independent review of the operation of the Commission and the *Public Processions (NI) Act 1998* by Sir George Quigley. Sir George Quigley was appointed by the NIO on 27th November 2001, and submitted his report (hereinafter, the *Quigley Report*) to the Secretary of State on 27th September 2002. Fourth, was another inquiry by the Northern Ireland Affairs Select Committee (Northern Ireland Affairs Committee, *The Parades Commission and Public Processions (Northern Ireland) Act 1998*, 2004-5, H.C. 172-I) and most recently, the NIO consultation on mediation measures for disputed parades (NIO, *Mediation Measures for Parades in Northern Ireland* (2005), available at [http://www.nio.gov.uk/mediation\\_measures\\_for\\_parades\\_in\\_northern\\_ireland\\_-\\_a\\_consultation\\_document.pdf](http://www.nio.gov.uk/mediation_measures_for_parades_in_northern_ireland_-_a_consultation_document.pdf)).
- <sup>4</sup> Joint Communiqué, British-Irish Intergovernmental Conference, Iveagh House, Tuesday 24 October 2006.
- <sup>5</sup> Interview, six Parades Commission Authorised Officers, Monday 2 April 2007.
- <sup>6</sup> This concern was also more generally reflected in relation to speculation that the DUP and Sinn Féin are seeking to 'do a deal' on parades. See for example, 'SF warned not to barter away residents' rights' *Irish News*, 16/4/07.
- <sup>7</sup> Interview, Parades Commission, Tuesday 15 May 2007.
- <sup>8</sup> For example, interviews, Residents' spokespersons, Thursday 12 April 2007, and Loyal Order members, Wednesday 23 May 2007.
- <sup>9</sup> For example, interviews, Residents' spokesperson, Monday 30 April 2007. Others made a similar point but distinguished between the concept of the Parades Commission (which they favoured) and its current membership (which they felt to be unrepresentative of the community of Northern Ireland). See, for example, interview, Residents' spokespersons, Thursday 12 April 2007.
- <sup>10</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>11</sup> Written submission, marching organisation.
- <sup>12</sup> Source: RUC Chief Constable's Reports. Notes accompanying Table 1:
  - (A) All conditions were complied with.
  - (B) All conditions were complied with.
  - (C) Serious disorder occurred at Whiterock No.9 District LOL parade on 26/6/93 which had been re-routed away from the Ainsworth Avenue/Springfield Road junction. A grenade type bomb exploded prematurely and killed one person. 9 were charged with riotous behaviour.
  - (D) All conditions were complied with.
  - (E) 7 Loyalist and 17 Nationalist. These were mainly at protest type parades and rallies concerning the peace process.
  - (F) The main parades at which disorder occurred were Drumcree, 9/7/95, Ormeau Road, 12/7/95, and both London/Derry and Ormeau Road, 12/8/95.
  - (G) The Secretary of State, Sir Patrick Mayhew, exercised his powers under article 5 of the Public Order Order (NI) 1987 and imposed a ban on all parades along part of the city wall in Derry between 7 – 31 August 1996.
- <sup>13</sup> Figures drawn primarily from Parades Commission Annual Reports. However, figures marked \* are drawn from police sources: For 1996-97, the figures are from the RUC Chief Constable's Annual Report, and these only include parades classified as either 'Loyalist' or 'Nationalist'. Those for 2005-06 and 2006-07 are from the PSNI Parades Statistics 2004/05 – 2006/07 (available at [http://www.psnipolice.uk/parades\\_fy-7.doc](http://www.psnipolice.uk/parades_fy-7.doc)). Note that the figures from the Parades Commission and PSNI do not match exactly. For example, the total no. of parades in 2004-05 according to the PSNI is 3045 whilst the Parades Commission record 3342. Significantly too, the figures recorded by the PSNI for the total no. of parades with route restrictions appears much lower than the figures provided by the Commission for the years 1998 – 2003-04.
- <sup>14</sup> This was contrasted by one interviewee with other countries (such as Spain) where Roman Catholics feast days are often marked by processions. Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>15</sup> In the case of Portadown, the statistics are skewed because of the weekly (protest) notification submitted by Portadown LOL No.1.
- <sup>16</sup> Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>17</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>18</sup> This information is drawn from <http://cain.ulst.ac.uk/issues/parade/chpa1.htm>. See further Dominic Bryan and Neil Jarman, *Parade and Protest: A Discussion of Parading Disputes in Northern Ireland*, Section 3: 'Varieties of Parades', available at <http://www.ccruni.gov.uk/research/csc/parade3.htm> and Section 4: 'An Average Parading Year', available at <http://cain.ulst.ac.uk/csc/reports/parade4.htm>
- <sup>19</sup> Interview, Loyal Order members, Thursday 26 April 2007.
- <sup>20</sup> Interview, Loyal Order members, Tuesday 1 May 2007.
- <sup>21</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>22</sup> *Ibid.*
- <sup>23</sup> *Ibid.*
- <sup>24</sup> Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>25</sup> Interview, academic expert, Friday 11 May 2007.
- <sup>26</sup> Interviews, Monday 9 April and Tuesday 8 May, 2007.
- <sup>27</sup> Interview, Band members, Tuesday 29 May 2007.
- <sup>28</sup> Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>29</sup> *Ibid.*
- <sup>30</sup> Interviews, Loyal Order members, Thursday 5 April and Wednesday 25 April, 2007.
- <sup>31</sup> Interview, Loyal Order members, Tuesday 24 April 2007.

# Endnotes (continued)

- <sup>32</sup> Interview with Band members, Tuesday 29 May 2007.
- <sup>33</sup> For example, interviews, Loyal Order members, Wednesday 25 April 2007 and Thursday 26 April, 2007.
- <sup>34</sup> See written submission, Ulster Bands Association. Interviewees also pointed to other organisations which develop a culture of parading from an early age, such as the Boys Brigade, for example, interviews, Loyal Order member, Monday 23 April and Band members, Tuesday 29 May, 2007.
- <sup>35</sup> Interview, Band members, Tuesday 29 May, 2007.
- <sup>36</sup> *Ibid.*
- <sup>37</sup> *Ibid.*
- <sup>38</sup> For example, interview, Residents' spokespersons, Thursday 12 April, 2007. See also 'Anniversary Clash Criticized' *Irish News* 30 April 2007, at 11.
- <sup>39</sup> See also Neil Jarman and Dominic Bryan, *From Riots to Rights: Nationalist Parades in the North of Ireland*, at 69-71.
- <sup>40</sup> For example, interview, Loyal Order members, Tuesday 24 April 2007.
- <sup>41</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.
- <sup>42</sup> Interview, Residents' spokesperson, Monday 30 April 2007.
- <sup>43</sup> Interview, Parade organiser, Wednesday 2 May 2007.
- <sup>44</sup> For example, interviews Monday 9 April and Monday 30 April, 2007.
- <sup>45</sup> Interview, Church leader, Monday 30 April 2007.
- <sup>46</sup> Interview, Tuesday 8 May 2007.
- <sup>47</sup> See further <http://www.maidencityfestival.com>
- <sup>48</sup> Interview, Monday 9 April 2007.
- <sup>49</sup> See further, *St Patrick's Day Outdoor Event 2006: Monitoring Report* (2006) Institute of Irish Studies, QUB. Available at: <http://www.qub.ac.uk/schools/IrishStudies/FileStore/Fileupload,64123,en.pdf>
- <sup>50</sup> Interview, Church leader, Monday 30 April 2007.
- <sup>51</sup> For example, interviews, Loyal Order members, Thursday 5 April and Tuesday 24 April, 2007.
- <sup>52</sup> Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>53</sup> Letter from NITB to the author, 21 May 2007.
- <sup>54</sup> See <http://www.awardsforall.org.uk/northernireland/index.html>
- <sup>55</sup> Interviews, Monday 9 April and Tuesday 8 May, 2007.
- <sup>56</sup> Email communication (on file with author) Friday 25 May 2007.
- <sup>57</sup> Maria Eagle, on behalf of the Minister for Social Development, Mr. Hanson MP, in answer to a written question to the Secretary of State for Northern Ireland by Iris Robinson. See Daily Hansard, Written Answers, 13 September 2006, Column 2412W, [Q.86323] 'Twelfth Celebrations.'
- <sup>58</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>59</sup> Interview, Residents' spokespersons, Thursday 12 April, 2007.
- <sup>60</sup> *Ibid.*
- <sup>61</sup> Interviews, Residents' spokespersons, Monday 30 April and Wednesday 2 May, 2007.
- <sup>62</sup> For example, interviews, Residents' spokespersons, Tuesday 1 May, Wednesday 2 May, and Monday 28 May, 2007.
- <sup>63</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>64</sup> Interview, Residents' spokespersons Wednesday 2 May 2007.
- <sup>65</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.
- <sup>66</sup> *Ibid.*
- <sup>67</sup> Interview, Residents' spokespersons, Monday 28 May 2007.
- <sup>68</sup> *Ibid.*
- <sup>69</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>70</sup> *Ibid.*
- <sup>71</sup> Interview, Loyal Order members, Tuesday 24 April 2007.
- <sup>72</sup> Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>73</sup> Interviews, Loyal Order members, Monday 23 April, Tuesday 24 April, Wednesday 25 April, Thursday 26 April, and Tuesday 1 May, 2007.
- <sup>74</sup> Record presented during interview, Loyal Order members, Tuesday 24 April 2007.
- <sup>75</sup> For example, interviews, Residents' spokespersons, Thursday 12 April and Monday 28 May; Republican MLAs, Thursday 10 May 2007.
- <sup>76</sup> Interview, academic expert, Friday 11 May.
- <sup>77</sup> Northern Ireland Affairs Committee, Second Report, Session 2004-05. Available at <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmniaf/172/17206.htm>
- <sup>78</sup> A judicial review challenged the appointment of former Portadown Orangeman, David Burrows, to the Commission. As a result of these proceedings, David Burrows appointment was initially ruled to be unlawful, but that decision was overturned by the Court of the Appeal and he was reinstated. This judgement has now been appealed to the House of Lords. Meanwhile, David Burrows does not take part in any decisions involving Portadown so as to limit perceptions of bias. See *In re Duff*, [2006] NIQB 31, 19 May 2006, and in the Court of Appeal, *In Re Duff* [2006] NICA 28\_2, 9 June 2006.
- <sup>79</sup> Northern Ireland Statistics and Research Agency (NISRA) Omnibus Survey (26 Feb–30 March, 2001), *reprinted in* Parades Commission, *Third Annual Report* (2000-2001), at 30–32.
- <sup>80</sup> Research and Evaluation Services Survey (March 1999), *reprinted in* Parades Commission, *Second Annual Report* (1999-2000), at 25–26.
- <sup>81</sup> See Dominic Bryan, *The Parades Commission - On the right route? Or Public Perceptions of a Mongrel*. Unpublished paper presented to the Parades Commission.
- <sup>82</sup> Interview, Residents' spokesperson, Monday 30 April 2007.

- <sup>83</sup> Interviews, 11 April (at Peace & Reconciliation Group, London/Derry), 18 April and 3 May, (at Mediation Northern Ireland); and 25 April 2007(at the Northern Ireland Housing Executive).
- <sup>84</sup> Interview, Residents' spokespersons, Monday 28 May 2007.
- <sup>85</sup> Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>86</sup> *Ibid.*
- <sup>87</sup> Interview, Residents' spokespersons, Tuesday 1 May, Wednesday 2 May, and Monday 28 May 2007.
- <sup>88</sup> For example, interview, Loyal Order members, Thursday 26 April 2007.
- <sup>89</sup> Interview, Residents' spokesperson, Wednesday 2 May 2007.
- <sup>90</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.
- <sup>91</sup> *Ibid.*
- <sup>92</sup> For example, interview, Residents' spokesperson, Monday 30 April 2007.
- <sup>93</sup> For example, interviews, Residents'spokespersons, Wednesday 2 May 2007.
- <sup>94</sup> Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>95</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>96</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.
- <sup>97</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>98</sup> Interview, local trade representative, Monday 23 April 2007.
- <sup>99</sup> Northern Ireland Life and Times Survey, 2006 (Community Relations). Available at [http://www.ark.ac.uk/nilt/2006/Community\\_Relations/index.html](http://www.ark.ac.uk/nilt/2006/Community_Relations/index.html)
- <sup>100</sup> cf. 11% for Town Councils, 20% for Political Parties, 14% for Cultural Groups, 11% for Other Community Groups, and 25% for Isolated Individuals.
- <sup>101</sup> cf. 3% for Town Councils, 21% for Political Parties, 16% for Cultural Groups, 13% for Other Community Groups, and 27% for Isolated Individuals.
- <sup>102</sup> Interview, Loyal Order members, Tuesday 24 April 2007.
- <sup>103</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>104</sup> David Feldman, 'Content Neutrality' in Ian Loveland (ed) *Importing the First Amendment: Freedom of Speech and Expression in Britain, Europe and the USA* (Oxford: Hart Publishing, 1998) 139 at 154.
- <sup>105</sup> See, for example, the Court in the US case of *Chaplinski v New Hampshire* (1942) 315 US 568 at 571-2 which stated that some categories of expression 'are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.'
- <sup>106</sup> Commission's Decision in relation to Ballymaconnelly Sons of Conquerors FB, Rasharkin, 18 August 2006 at para.7.
- <sup>107</sup> Interview, Loyal Order members, Tuesday 1 May 2007.
- <sup>108</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>109</sup> Interview, Marching Organisation members, Tuesday 29 May 2007.
- <sup>110</sup> For example, interviews, Residents' spokespersons, Tuesday 1 May and Wednesday 2 May 2007.1
- <sup>111</sup> Interview, Loyal Order members, Tuesday 24 April 2007.
- <sup>112</sup> Interview, Residents' spokespersons, Monday 28 May 2007.
- <sup>113</sup> There has been a marked failure in academic literature on free speech 'to use or engage in empirical research on communication effects.' See Raphael Cohen-Almagor (ed), *Liberal Democracy and the Limits of Tolerance: Essays in Honor and Memory of Yitshak Rabin* (2000) at 4.
- <sup>114</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.
- <sup>115</sup> Maria Eagle, on behalf of the Minister for Social Development, Mr. Hanson MP, in answer to a written question to the Secretary of State for Northern Ireland by Iris Robinson. See Daily Hansard, Written Answers, 13 September 2006, Column 2412W, [Q.86323] 'Twelfth Celebrations.'
- <sup>116</sup> Interviews, Loyal Order members, Thursday 5 April, Wednesday 25 April and Thursday 26 April 2007.
- <sup>117</sup> Interview, local trade representative, Monday 23 April 2007.
- <sup>118</sup> Interview, Residents' spokespersons, Monday 28 May 2007.
- <sup>119</sup> Interview, Friday 4 May 2007.
- <sup>120</sup> Interview, six Parades Commission Authorized Officers, Monday 2 April 2007.
- <sup>121</sup> Interview, local trade representative, Monday 23 April 2007.
- <sup>122</sup> Interview, six Parades Commission Authorized Officers, Monday 2 April 2007.
- <sup>123</sup> Interview, local trade representative, Monday 23 April 2007.
- <sup>124</sup> Interview, Loyal Order members, 23 May 2007.
- <sup>125</sup> Interview, six Parades Commission Authorized Officers, Monday 2 April.
- <sup>126</sup> Neil Jarman (ed.), *On the Edge: Community Perspectives on the Civil Disturbances in North Belfast, June-September 1996* (June 1997).
- <sup>127</sup> CBI Northern Ireland, submission to the Quigley Review of the Parades Commission and Public Processions (NI) Act 1998, August 2002.
- <sup>128</sup> Interview (confidential, on file with author) Thursday 24 May 2007.
- <sup>129</sup> For example, interview, Loyal Order members, Thursday 26 April 2007.
- <sup>130</sup> For example, interview, Residents' spokespersons, Monday 28 May 2007.
- <sup>131</sup> This was the subject of a complaint (ultimately rejected) to the Police Ombudsman that the PSNI had policed a parade in Lurgan in a partial manner because officers in jackets were used to police Loyalist supporters while 15 police Land Rovers and officers in full riot gear policed the Nationalists. The Ombudsman said 'There is insufficient evidence to suggest that the deployment of officers was anything other than operational policing. A crowd of nationalist had attacked a train carrying Royal Black Preceptory members earlier in the day and police were deployed in a manner designed to best deal with the risk of further disturbances.' See [http://www.policeombudsman.org/Press.cfm?action=Detail&Press\\_Id=120](http://www.policeombudsman.org/Press.cfm?action=Detail&Press_Id=120)

# Endnotes (continued)

- <sup>132</sup> Interview Monday 2 April 2007.
- <sup>133</sup> *Ibid.*
- <sup>134</sup> PSNI, preliminary written submission to the SRBP.
- <sup>135</sup> See [http://www.policeombudsman.org/Press.cfm?action=Detail&Press\\_Id=120](http://www.policeombudsman.org/Press.cfm?action=Detail&Press_Id=120)
- <sup>136</sup> See paras. 76 and 77 of the *Explanatory Notes*. available at [http://www.nio.gov.uk/justice\\_and\\_security\\_\(northern\\_ireland\)\\_bill\\_explanatory\\_notes.pdf](http://www.nio.gov.uk/justice_and_security_(northern_ireland)_bill_explanatory_notes.pdf). See also <http://www.publications.parliament.uk/pa/cm200607/cmbills/010/07010.15-21.html>
- <sup>137</sup> ‘Supplementary Memorandum submitted by the Police Service of Northern Ireland’ in Northern Ireland Affairs Committee (2004-2005) *Second Report: The Parades Commission and the Public Processions (NI) Act 1998*. HC172-II, Appendix 16, at EV137.
- <sup>138</sup> Memorandum from the Royal Ulster Constabulary, in Northern Ireland Affairs Committee, *Second Report: The Parades Commission*, H.C. 120-II at 70 (2000-2001).
- <sup>139</sup> PSNI Chief Constable’s Annual Report 2001-2002, at 14 (2002).
- <sup>140</sup> 325 Parl. Deb., H.C. (6th ser.) (1999) 480 (responding to written question 69882 by Kevin McNamara); see also 329 Parl. Deb., H.C. (6th ser.) (1999) 535 (responding to written question 80914 by Mr. MacKay).
- <sup>141</sup> 631 Parl. Deb., H.L. (5th ser.) (2002) WA90 (responding to question HL 2290 by Lord Eames).
- <sup>142</sup> 631 Parl. Deb., H.L. (5th ser.) (2002) WA172.
- <sup>143</sup> 435 Parl. Deb., H.C. (6th ser.) (2005) 1325W (responding to question 7148 by Lady Hermon).
- <sup>144</sup> ‘Policing Parade Trouble Cost £3m’ (BBC News October 31, 2005) [http://news.bbc.co.uk/1/hi/northern\\_ireland/4394158.stm](http://news.bbc.co.uk/1/hi/northern_ireland/4394158.stm)
- <sup>145</sup> Parades Commission determination, Parkmount Junior LOL No.150 Parade in Portadown (May 25, 2002).
- <sup>146</sup> HC Deb. 17th June 1998 (pt.13), Col. 251 [Adam Ingram in response to written Q.44749 by Mr. Salter].
- <sup>147</sup> A brief overview of the North recommendations and the arguments raised in the Quigley Report are included in Appendix IV. A diagrammatic outline of the pre-parade procedures recommended by the Quigley Report is included in Appendix V.
- <sup>148</sup> *The North Report*, at 204. This sentiment is echoed in the Parades Commission’s own Guidelines.
- <sup>149</sup> Lords Hansard, 1 Dec 2005 : Column WS39
- <sup>150</sup> See, for example, *Parades Boss wants Dialogue Focus*, BBC News, 1 December 2005. Available at [http://news.bbc.co.uk/1/hi/northern\\_ireland/4487678.stm](http://news.bbc.co.uk/1/hi/northern_ireland/4487678.stm)
- <sup>151</sup> Interview, Residents’ spokespersons, Wednesday 2 May 2007.
- <sup>152</sup> Interview, Monday 2 April.
- <sup>153</sup> Interview, Residents’ spokespersons, Thursday 12 April 2007.
- <sup>154</sup> Interview, academic expert, Friday 11 May 2007.
- <sup>155</sup> Interview, Loyal Order members, Tuesday 1 May 2007.
- <sup>156</sup> House of Commons Research Paper 98/11, *Public Procession in Northern Ireland*, 11 January 1981 <http://www.parliament.uk/commons/lib/research/rp98/rp98-011.pdf>
- <sup>157</sup> Interview, Ulster Human Rights Watch, Monday 7 May 2007.
- <sup>158</sup> Available online at [http://www.osce.org/publications/odhr/2007/03/23835\\_823\\_en.pdf](http://www.osce.org/publications/odhr/2007/03/23835_823_en.pdf)
- <sup>159</sup> See, for example, Michael Hamilton, Neil Jarman & Dominic Bryan (2001) *Parades, Protests and Policing: A Human Rights Framework*. NIHRC [http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/24/parades\\_policing.doc](http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/24/parades_policing.doc)
- <sup>160</sup> Interview, Residents’ spokespersons, Thursday 12 April 2007.
- <sup>161</sup> See further, for example, *Baczkowski and Others v Poland (Application no. 1543/06)* (Judgment of 3 May 2007) in which the European Court of Human Rights states (at para.62): ‘For pluralism is also built on the genuine recognition of, and respect for, diversity and the dynamics of cultural traditions, ethnic and cultural identities, religious beliefs, artistic, literary and socio-economic ideas and concepts. *The harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion.*’ [emphasis added]. The Committee on the Administration of Justice (CAJ) has stated that ‘government has determined that issues of equality and rights are, or could be, divisive rather than provide the route by which reconciliation between individual and groups can be genuinely established.’ CAJ, *Equality in Northern Ireland: the rhetoric and the reality* (September 2006) at 126.
- <sup>162</sup> Extracted from a portfolio submitted by Ulster Human Rights Watch.
- <sup>163</sup> Interview, Loyal Order members, Thursday 5 April 2007.
- <sup>164</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>165</sup> Community Relations Unit, OFMDFM *A Consultation Paper on Improving Relations in Northern Ireland*, at 4, para. 1.3 (2003). See also Northern Ireland Social Attitudes Survey (1989 - 1996), available at <http://cain.ulst.ac.uk/othelem/research/nisas/nisas.htm>; and *Northern Ireland Life and Times Survey* (1998), available at <http://www.ark.ac.uk1> (suggesting a recent deterioration in community relations).
- <sup>166</sup> See further [http://www.asharedfutureni.gov.uk/pdf\\_documents/gprs.pdf](http://www.asharedfutureni.gov.uk/pdf_documents/gprs.pdf)
- <sup>167</sup> These objectives are respect, tolerance, responsible citizenship and promoting equality of opportunity and human rights.
- <sup>168</sup> Determination on Belfast Walker Club ABOD parade in Belfast (9/11/02).
- <sup>169</sup> Determination on Ligoniel Walker Club ABOD parade in Belfast (1/4/02). The Commission suggested that the concept of shared space was particularly important where the road in question ‘is a major arterial route ... used by both communities.’
- <sup>170</sup> Parades Commission, *Parading in a Peaceful Northern Ireland: Forward View and Review of Procedures* (2006-2007) at 5.
- <sup>171</sup> *Quigley*, at 124, para.11.13.
- <sup>172</sup> For example, interviews, Residents’ spokespersons, Thursday 12 April, and Republican MLAs, Thursday 10 May 2007.
- <sup>173</sup> Whilst not in this instance referring to ex-combatant groups, the Parades Commission has stated that ‘The Commission emphasises in the strongest terms its respect and support for religious expression and for remembering the deceased. It does not take lightly any decision, which may be perceived to do otherwise.’ See Decision in relation to a Review, under Rule 6.1 of the Commission’s Procedural Rules, of the Commission’s

Decision of 29 June 2006 in relation to the Dunloy LOL496 parade in Dunloy on 12 July 2006, at para.16.

<sup>174</sup> CAJ, *Equality in Northern Ireland: the rhetoric and the reality*, at 133.

<sup>175</sup> *A Shared Future: A Consultation Paper on Improving Relations in Northern Ireland* at 16-17.

<sup>176</sup> Interview, Loyal Order members, Tuesday 1 May 2007.

<sup>177</sup> Interview, Loyal Order members, Wednesday 23 May 2007.

<sup>178</sup> Interview, Loyal Order members, Thursday 5 April 2007.

<sup>179</sup> Maeve Connolly, 'Lodge plan 'a chance to learn'' *Irish News* 19 January 2007. Available at [http://www.nuzhound.com/articles/irish\\_news/arts2007/jan19\\_lodge\\_plan\\_chance\\_to\\_learn.php](http://www.nuzhound.com/articles/irish_news/arts2007/jan19_lodge_plan_chance_to_learn.php)

<sup>180</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.

<sup>181</sup> Interview, Residents' spokespersons, Wednesday 2 May 2007.

<sup>182</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.

<sup>183</sup> *Ibid.*

<sup>184</sup> Interview, Residents' spokesperson, Monday 30 April 2007.

<sup>185</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.

<sup>186</sup> *Ibid.*

<sup>187</sup> *Ibid.*

<sup>188</sup> Interview, Residents' spokespersons, Monday 28 May 2007.

<sup>189</sup> Interview, Loyal Order member, Monday 23 April 2007.

<sup>190</sup> Similiary, detailed instructions for participants and marshals of the 2005 Maiden City Festival were posted on the festival website:

See <http://www.maidencityfestival.com/relief-of-derry-commemorations/>

<sup>191</sup> Interview, Tuesday 29 May.

<sup>192</sup> [2006] UKHL 53, available at <http://www.publications.parliament.uk/pa/ld200607/ldjudgmt/jd131206/tweed-1.htm>

<sup>193</sup> The five documents were: (1) The facsimile transmission received by the Parades Commission from the police and referred to in paragraph 6(ii) of Sir Anthony Holland's affidavit of 29 July 2004; (2) The police report received by the Parades Commission on 24 March 2004; (3) The situation report received by the Commission from its Authorised Officers on 24 March 2004; (4) The note provided by the Commission's Secretariat to the Commission members dated 30 March 2004; and (5) The further situation report provided to the Commission by its Authorised Officers on 2 April 2004.

<sup>194</sup> See Appendix IV for a summary of the current notification procedure.1

<sup>195</sup> Interview, Monday 2 April.

<sup>196</sup> Interview, six Parades Commission Authorised Officers, Monday 2 April 2007.

<sup>197</sup> Interview, Loyal Order members, Thursday 5 April 2007.

<sup>198</sup> Email communication, (on file with author).

<sup>199</sup> This issue has arisen in relation to non-contentious events, particularly vintage car rallies. It was initially reported that the Chairman of the Parades Commission had said 'that vintage vehicle rallies, which have been subject to the rulings of the commission, will no longer be so.' See 'Parades' talks open to all, urges Poole' *Newsletter* 26 October 2006.

Available at <http://www.newsletter.co.uk/ViewArticle.aspx?SectionID=3425&ArticleID=1843893> The Commission's Forward View and Review of Procedures document however states simply that 'In the interests of helping to normalise Northern Ireland society ... the Commission would not object to consideration being given to further exemptions for those events which are demonstrably beyond the intention of the governing Act.'

<sup>200</sup> Interview, Loyal Order members, Tuesday 1 May 2007. See also Appendix IV for the critique articulated in the *Quigley Report* regarding the weight accorded by the Commission to 'engagement'.

<sup>201</sup> Interview, Residents' spokesperson, Monday 28 May 2007.

<sup>202</sup> For example, interview, Residents' spokesperson, Monday 28 May 2007.

<sup>203</sup> For example, interview, Church leader, Monday 30 April 2007.

<sup>204</sup> Interview, at Mediation Northern Ireland, Wednesday 18 April 2007.

<sup>205</sup> Interview, Residents' spokesperson, Monday 28 May 2007.

<sup>206</sup> See, for example, the *US Uniform Mediation Act* (2001)

<sup>207</sup> *The North Report*, at 144.

<sup>208</sup> Interview, Residents' spokespersons, Thursday 12 April 2007.

<sup>209</sup> Interview, Loyal Order members, Wednesday 23 May 2007.

<sup>210</sup> Interview, Loyal Order members, Tuesday 1 May 2007.

<sup>211</sup> Interview, Loyal Order members, Wednesday 23 May 2007.

<sup>212</sup> Interview, ICTU, Wednesday 25 April 2007.

<sup>213</sup> Interview, Loyal Order members, Tuesday 24 April 2007.

<sup>214</sup> *Ibid.*

<sup>215</sup> Interview, Loyal Order members, Tuesday 1 May 2007.

<sup>216</sup> Interview, Loyal Order members, Tuesday 24 April 2007.

<sup>217</sup> Interview, Loyal Order members, Wednesday 23 May 2007.

<sup>218</sup> Interview, Residents' spokespersons, Monday 28 May 2007.

<sup>219</sup> See, for example, Grainne Kelly, *Shared Space, shared problem: Local civic fora and intercommunal relations*. Democratic Dialogue (May 2004) which examines four case studies of Derry Shared City Forum, Newry Good Relations Forum, Moyle Community Forum, and Larne Forum for Social Development.



# Endnotes (continued)

- <sup>220</sup> For example, interview, at the Northern Ireland Housing Executive, Wednesday 25 April 2007.
- <sup>221</sup> See, for example, John Darby and Colin Knox (2004) *A Shared Future: A Consultation Paper on Improving Relations in Northern Ireland* in relation to the Parades Commission at 33, para.6.8.
- <sup>222</sup> The Housing Executive could potentially work with the Arbitration Body on common issues of territoriality, and could also furnish the Arbitration body with evidence of the impact of parade disputes on an area – through, for example, two programmes – the Special Purchase of Evacuated Dwellings (SPED) and Protection of Private Property Initiative (POPPI). The Northern Ireland Housing Executive, in its Good Relations Strategy, aims to: respond quickly and effectively to the needs of people in danger as a result of community conflict; work in partnership with others to address the complex needs of a divided society; respect the rights of those who choose to live in single identity neighbourhoods; and facilitate and encourage integrated housing as far as this is practicable, desirable and safe. The Housing Executive formed its Community Cohesion Unit to deliver its Good Relations Strategy in September 2004. Its work is thematically divided into: Tackling flags, Emblems and Sectional Symbols; Shared Future-Housing by Choice Schemes; Race relations; Interface areas; Transitional areas.
- <sup>223</sup> Interview, Residents' spokesperson, Monday 30 April 2007.
- <sup>224</sup> See discussion of the question of devolution of policing and justice powers at <http://www.niassembly.gov.uk/theassembly/Plenary/p060818.htm>: 'The Chairman (Mr Molloy): The PFG Committee dealing with law and order issues, which meets on Wednesdays, agreed that this Committee, which is tasked with dealing with rights, equality issues, safeguards and victims, should discuss whether the Assembly might wish to have appointments to the Parades Commission devolved with justice and policing. An attached table from an NIO letter of 15 August on that subject will be circulated. Paragraph 10 of schedule 3 to the 1998 Act deals with public order, and reference is made to the Parades Commission in the "Issues remaining" column.'
- <sup>225</sup> See <http://www.rpani.gov.uk/>
- <sup>226</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>227</sup> Belfast City Council, for example, in its good relations strategy ('Building all our Futures Together' (2004)) also aspires '[t]o promote tolerance and understanding' ('by providing support, through equitable use of budgets, for appropriate initiatives, which celebrate the cultural diversity of Belfast') and '[t]o use the Council's influence as a democratic body, providing civic leadership to the city, to promote good relations throughout the city.'
- <sup>228</sup> Interview, (confidential, on file with author).
- <sup>229</sup> Dominic Bryan and Neil Jarman *Parades and Related Protests in Belfast: A Review* (2007).
- <sup>230</sup> Interview, Loyal Order members, Wednesday 23 May 2007.
- <sup>231</sup> ICTU response to Quigley proposals.
- <sup>232</sup> Murtagh, B. (1999) *Community and Conflict in Rural Ulster*. Coleraine: Centre for the Study of Conflict, p.56.
- <sup>233</sup> Similar sentiments were expressed during interviews with Loyal Order members, Thursday 5 April, Tuesday 24 April, and Thursday 26 April 2007.
- <sup>234</sup> In addition to a Northern Ireland Survey, the eleven specific areas surveyed were: Bellaghy, Bogside, Botanic, Castlederg, Desertmartin, Fountain, Garvaghy Road, Lower Ormeau, North Belfast, Pomeroy and Rosslea.
- <sup>235</sup> See <http://www.scotland.gov.uk/marchesandparades>
- <sup>236</sup> Available at [http://www.osce.org/publications/odihr/2007/03/23835\\_823\\_en.pdf](http://www.osce.org/publications/odihr/2007/03/23835_823_en.pdf)
- <sup>237</sup> The North Report, at 141, paras.12.31-12.36.
- <sup>238</sup> Ibid., at 140, para.130.
- <sup>239</sup> Ibid., at 138, para.12.21.
- <sup>240</sup> Ibid., at 106-107, paras.8.62-8.64.
- <sup>241</sup> Ibid., at 159, para.12.98.
- <sup>242</sup> Ibid., at 160, para.12.99.
- <sup>243</sup> Ibid.
- <sup>244</sup> Ibid., at 82, para.7.46.
- <sup>245</sup> Ibid., at 144, para.12.44.
- <sup>246</sup> Ibid., at 151, para.12.69-12.70.
- <sup>247</sup> Ibid., at 150, para.12.64.
- <sup>248</sup> Ibid., at 129, para.11.14 [emphasis added].
- <sup>249</sup> Ibid., at 160-161, paras.12.100-12.102. By way of comparison, the *Review of the Parades Commission and Public Processions (NI) Act 1998* (2002) conducted by Sir George Quigley, recommends that the adjudicatory body should be able to impose determinations which would stand for up to five years, at 246, para.22.1(vi).
- <sup>250</sup> Ibid., at 135, para.12.7. See also the concerns raised about the statutory criteria by the RUC, at 54, para.6.4.
- <sup>251</sup> Ibid., at 158, para.12.94(b).
- <sup>252</sup> Ibid., pp.180-189, at para.13.39.
- <sup>253</sup> Ibid., at 187, para.13.49.
- <sup>254</sup> Ibid., at 187, para.13.51.
- <sup>255</sup> Ibid., at 188, para.13.52.
- <sup>256</sup> Ibid., at 188, para.13.54.
- <sup>257</sup> Northern Ireland Affairs Select Committee, *The Parades Commission and Public Processions (Northern Ireland) Act 1998*, Second Report of Session 2004-05, at paras.13-14.
- <sup>258</sup> Quigley, para. 11.17.
- <sup>259</sup> Northern Ireland Affairs Committee, Second Report, Session 2004-05. Available at <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmniaf/172/17206.htm>