



House of Commons  
Northern Ireland Affairs  
Committee

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# The Parades Commission and Public Processions (Northern Ireland) Act 1998

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Second Report of Session 2004–05

## *Volume I*

*Report, together with formal minutes*

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## The Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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Mr Harry Barnes, MP (*Labour, North East Derbyshire*)  
Mr Peter Robinson, MP (*Democratic Unionist Party, East Belfast*)

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## Summary

The government announced its intention to commission a review of the Parades Commission and the Public Processions (Northern Ireland) Act 1998 in August 2001 and appointed Sir George Quigley to carry this out. His report was issued for public consultation in November 2002.

More than two years have passed since the report was issued for consultation and the government has not yet issued a response. The delay has been particularly unfortunate because our inquiry has shown that steady progress has been made by the Parades Commission in difficult and highly contentious circumstances. Replacing it with new organisational arrangements, as suggested by Sir George Quigley, could entail considerable disruption and place at risk the progress towards a peaceful marching season. Wholly local and peaceful resolutions to local disputes must remain the ultimate goal. But, while third party intervention in such disputes continues to be needed, we believe that retaining the Parades Commission offers the best hope for developing peaceful resolutions.

However, in order to move forward, the Commission needs to improve its procedures in important respects, in particular to:

- make the objections to parades clearer and more accessible to organisers
- take forward its proposal to develop a “compliance and post mortem” procedure to provide parade organisers in good time with detailed feedback on the key issues brought to the Commission’s attention during the marching season
- include in its determinations fuller explanations and greater detail about the potential impact of a parade on community relations and on human rights and public order
- review its involvement in mediation as a matter of urgency and strengthen its cadre of Authorised Officers

We consider that the recommendation in Sir George Quigley’s report that responsibility for restrictions on parades imposed on public order grounds should revert to the police risks placing the police in an impossible position. We believe that it is essential to further progress in the resolution of disputes for the police to be seen unambiguously as occupying neutral ground and to remain completely apart from *decisions* about parades.

The confusion which emerged during the 2004 marching season about the status of parade followers resulted in serious disorder in the Ardoyne area of North Belfast. We recommend that the government’s review of existing legislation ensures that there is sufficient clarity about followers in advance of next year’s marching season.

We look forward to a time when arrangements for parading in Northern Ireland require no third party intervention to prevent violence and public disorder. We recognise that this is an aspiration which the Parades Commission shares.<sup>1</sup> However, that ideal position has

yet to be reached. There is evidence that the work of the Parades Commission has improved the climate. However, more effort is required to reduce tension further, dispel the prospect of unrest and violence, and foster the conditions which will make third party intervention redundant. To build upon the progress already made, the Commission needs to drive forward its mediation work, improve the transparency of its operations, and redouble its efforts to secure the cooperation of the Orange Order. We welcome evidence from the Parades Commission that it is actively seeking ways to improve its operations, and look forward to examining the effect of these in due course.

# 1 Introduction

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1. In August 2001, following discussions between the British and Irish governments and Northern Ireland political parties at Weston Park<sup>2</sup>, the government decided to set up a review of the Parades Commission. In November 2001, Sir George Quigley was appointed to review the operation of the Commission and the Public Processions (Northern Ireland) Act 1998 ('the 1998 Act') and to consider whether there were changes which could promote further public confidence on all sides.<sup>3</sup> He reported in September 2002.

2. The report was issued for public consultation on 7 November 2002. This was intended to run until 31 January 2003, but the government extended the process until the end of April 2003 and then decided to leave the process open. The significant delay by the government in responding to the review was one reason for our decision to hold this inquiry.

3. The committee announced the terms of reference of this inquiry on 13 September 2003:

- The response by government and other interested parties to the Quigley review
- The case for implementing key recommendations of the Quigley review, and
- The legislative (or other) steps necessary to implement such recommendations, if appropriate.

4. We took oral evidence on six occasions and are grateful to all those who provided evidence to us.

## 2 The Public Processions (Northern Ireland) Act 1998 and the Parades Commission

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### The North review and the Public Processions (Northern Ireland) Act 1998

5. A review to examine "the current arrangements for handling public processions and open-air public meetings and associated public order issues in Northern Ireland" conducted by Dr Peter North,<sup>4</sup> was established by the government in August 1996 following the serious public disorder and violence which had occurred in the previous month over parades at Drumcree in Portadown and the Ormeau Road in Belfast.<sup>5</sup>

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2 The Weston Park talks took place in an attempt to move the peace process forward. The focus of the discussions was on resolving outstanding issues, including policing, security normalisation, decommissioning, and the stability of the devolved institutions

3 Review of the Parades Commission and Public Processions (Northern Ireland) Act 1998, Sir George Quigley, p 38

4 Independent Review of Parades and Marches, Dr Peter North 1996-97 p16

5 We are aware of the different terms for public processions in Northern Ireland, including parades, marches and walks. We have used the term 'parades' generically throughout this report for ease of reference. Section 17(1) of the 1998 Act defines a public procession as a "procession in a public place, whether or not involving the use of vehicles or other conveyances."

6. Dr North's report concluded that there was a need for a new legislative framework to accommodate the competing rights of those seeking to parade and of objectors. He identified flaws in the Public Order (Northern Ireland) Order 1987, including its failure to recognise the right of peaceful assembly and the rights of those living in areas through which parades pass. Importantly, he expressed concern about the dual role performed by the police in making and then enforcing decisions about parades.

7. The report recommended that an independent body – a Parades Commission – should be set up to make decisions about parades and encourage parties to settle their difficulties locally. Where that proved impossible, the Commission would make a determination as to whether conditions should be imposed on a parade. The report made clear that the parades issue would not be resolved by the creation of new legal structures and processes alone but by communities working together in search of mutual accommodation.<sup>6</sup>

8. The North recommendations were implemented in the Public Processions (Northern Ireland) Act 1998 which came into force in February 1998 and established the Parades Commission. Two fundamental aims of the 1998 Act were to encourage parties to a dispute to reach a local, voluntary accommodation, creating the conditions in which there was no need for the Parades Commission to make a determination, and to “find a better way of dealing with contentious parades”.<sup>7</sup>

9. The Commission believes that the 1998 arrangements have worked well but that these could be more effective “with positive cooperation from parade organisers”,<sup>8</sup> particularly the Orange Order. The Orange Order has refused to engage with the Commission because of its view that parading should proceed without formal regulation.

## The Parades Commission

10. The 1998 Act defines the Parades Commission's functions as to:

- promote greater understanding by the general public of issues concerning public processions
- promote and facilitate mediation as a means of resolving disputes concerning public processions
- keep itself informed as to the conduct of public processions and protest meetings, and
- keep under review, and make recommendations as it thinks fit to the Secretary of State concerning, the operation of this Act<sup>9</sup>

and provides it with a number of powers to:

- facilitate mediation between parties to a dispute

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6 Independent Review of Parades and Marches 1997 p vi

7 Fifth Annual Report of the Parades Commission 2002-03, p 8

8 Ibid, p 8

9 Section 2(1)

- take appropriate steps to resolve such disputes, and
- issue determinations in respect of particular proposed parades.<sup>10</sup>

11. The Commission consists of a chairman and not more than six other members who are appointed by the Secretary of State.<sup>11</sup> The current Chairman, Sir Anthony Holland, and six members were reappointed with effect from 1 January 2004 for a period of two years.<sup>12</sup> The Commission is funded by a grant-in-aid from the Northern Ireland Office<sup>13</sup> and has an annual budget of around £1 million and an administrative secretariat of 12.

12. The Commission has a duty to issue a Code of Conduct providing guidance to and regulating the conduct of people organising a parade or protest meeting.<sup>14</sup> It is also required to issue procedural rules for regulating and prescribing practices to be followed when conducting its mediation and determination functions and guidelines governing its powers to impose conditions on parades.<sup>15</sup>

### ***Notice of parades and protest meetings***

13. Those organising a parade are required to give notice to a police officer<sup>16</sup> 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.<sup>17</sup> This is done by completing the prescribed Form 11/1.<sup>18</sup> 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.

14. 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.<sup>19</sup> Notice must be given in the prescribed Form 11/3, and the police must send a copy to the Commission.<sup>20</sup> However, the Commission has no powers in relation to protest meetings, which remain a matter for the police under the Public Order (Northern Ireland) Order 1987. The police have power to impose conditions on any protest meeting where they consider that the meeting may lead to serious public disorder, serious damage to property or serious disruption to the life of the community.<sup>21</sup>

10 Section 2(2)

11 Schedule 1, para 2(1)

12 The six members of the Parades Commission are: Billy Martin, Peter Osborne, John Cousins, The Reverend Roy Magee, Sir John Pringle and Peter Quinn

13 The Commission is classified as 'other public body, i.e. an organisation which is not an executive agency, a non-departmental public body, or an independent body. Northern Ireland Office 2004 Departmental Report, paragraph 1.18

14 Section 3

15 Sections 4 to 5. The Commission must keep its procedural rules and guidelines under review and may revise them, in whole or part. Further details relating to these instruments are provided in Schedule 2

16 Section 6. The officer must not be below the rank of sergeant

17 Section 6

18 Ev 89

19 Section 7

20 Section 7(5)

21 Public Order (Northern Ireland) Order 1987, Article 4(2)

### ***The Commission's decision-making process***

15. Once the Commission receives notice of a parade, it decides on the basis of the information provided on Form 11/1 and any other information at its disposal, whether the parade is likely to be contentious. If this is so, the Commission will encourage the relevant parties to reach a mutually acceptable local accommodation. The Commission can at this stage promote and facilitate mediation between the parties to a dispute, although mediation may have begun even before the Commission receives formal notice of a parade. Successful local accommodation means that the Commission has no further role.

16. Where a local accommodation is not reached, the Commission will consider whether to issue a determination imposing conditions on the organisers or participants.<sup>22</sup> The Commission has power to amend or revoke that determination. When considering whether to make, revoke or amend a determination, or to impose conditions, the Commission must have regard to its published guidelines<sup>23</sup> which are themselves required to have regard to:

- any public disorder or damage to property which may result from the proposed parade
- any disruption to the life of the community which the parade may cause
- any impact which the procession may have on relationships within the community
- any failure of a person to comply with the Code of Conduct, and
- the desirability of allowing a parade customarily held along a particular route to be so held.<sup>24</sup>

17. The Commission seeks advice from the Chief Constable of the Police Service of Northern Ireland (PSNI) when considering the potential for public disorder or any damage to property which is considered before a determination is made. Sir Anthony Holland told us that the Commission may accept or reject that advice in part or entirely.<sup>25</sup>

18. The Secretary of State is able, on application by the Chief Constable of the PSNI, to review a determination by the Commission.<sup>26</sup> On review, the Secretary of State can revoke, amend or confirm the determination. Sir Anthony Holland told us that while the PSNI have threatened to apply for a review of a Parades Commission determination, they have not actually done so.<sup>27</sup>

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22 Section 8

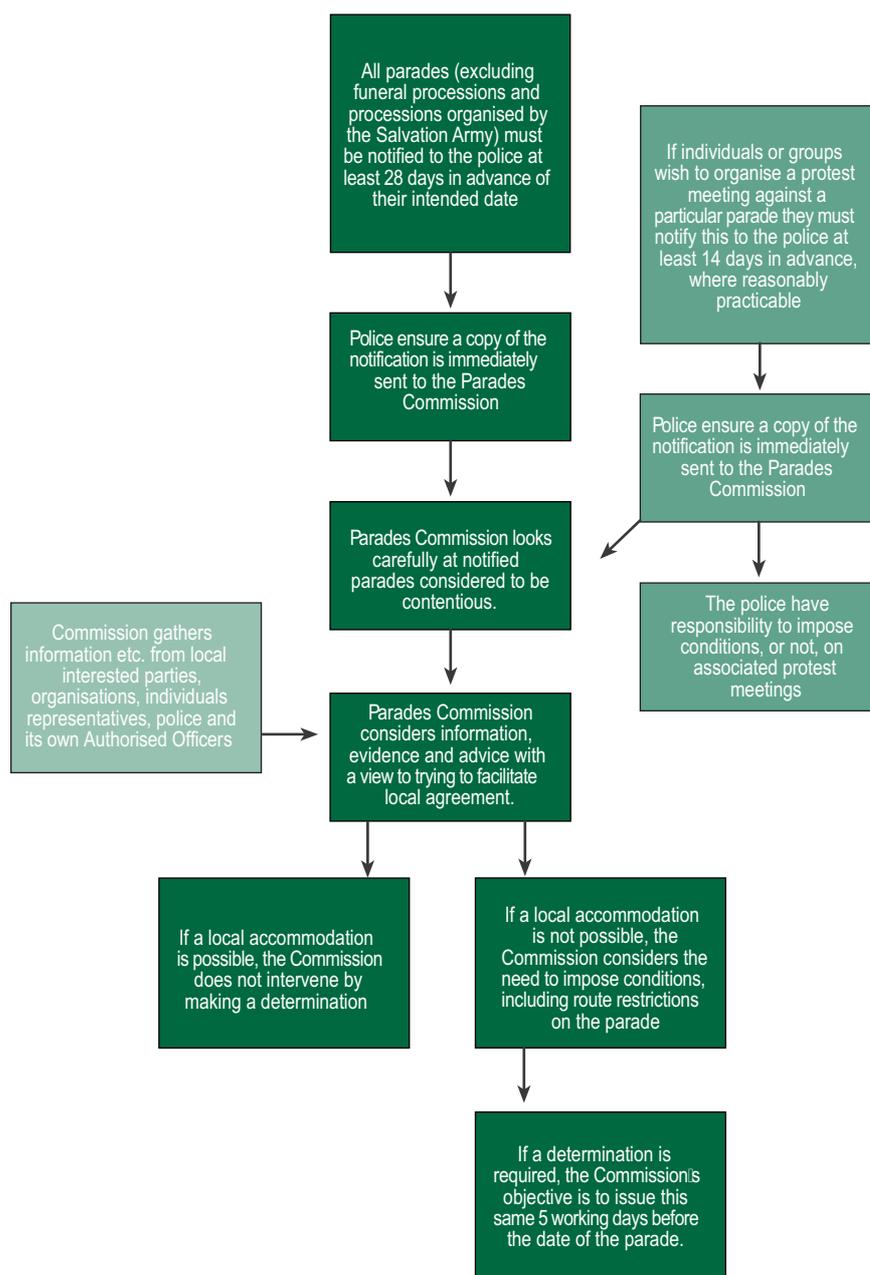
23 Section 8(5)

24 Section 8(6)

25 Q 212

26 Section 9

27 Qq 212,271



Source: *Third Annual Report of the Parades Commission 2000-2001*

### **Prohibition and other powers**

19. The Parades Commission has no powers to prohibit a parade, but the Secretary of State may prohibit a particular parade or, a class of parades, or all parades for a certain period in exceptional circumstances.<sup>28</sup> He also has power under the Public Order (Northern Ireland) Order 1987 to prohibit protest meetings for a period not exceeding three months.<sup>29</sup> Although section 12 of the 1998 Act enables the Secretary of State by Order to provide for the registration of bands taking part in parades, this power has never been exercised.<sup>30</sup>

28 Section 11

29 Public Order (Northern Ireland) Order 1987, Article 5

30 There are several hundred bands in Northern Ireland which are involved in parades. While some of them are attached to individual lodges, many are not. There are a number of different types of band associations in Northern

## 3 Sir George Quigley's Review

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20. The government's intention to commission a review of the Parades Commission and the Public Processions (Northern Ireland) Act 1998 was one of a number of "proposals of normalisation" following talks at Weston Park between the British and Irish governments and Northern Ireland political parties in July 2001. In August 2001, the British and Irish governments and the parties issued a joint statement that a review of the Parades Commission and the 1998 Act would be commissioned. The government made clear that the Commission had had four successful years of operation in difficult circumstances. It was intended that any legislative changes agreed as a result of the review would take effect after the Summer of 2002.

21. In November 2001, Sir George Quigley was appointed to conduct the review whose terms of reference were "to review the operation of the Parades Commission, since it took its current form in February 1998, and the legislation under which it was established and to consider whether there are any changes which could promote further confidence on all sides, respect for the rights of all and the peaceful resolution of disputes on parades."<sup>31</sup> The review was completed in September 2002, and the government issued it for public consultation on 7 November 2002.

22. The consultation process was intended to run until 31 January 2003. However, having received representations from both sides of the community that they required more time to respond to the report given the complexity and radical nature of some of the report's recommendations, the government extended the consultation period to the end of April 2003.<sup>32</sup> On expiry of this first extension, further representations were made for additional time and the government left "the door open for further responses to be submitted".<sup>33</sup>

**23. Although we understand that at first the government extended the consultation process to give some organisations more time to respond to the report by Sir George Quigley, the process has been running since November 2002 and was then 'left open'. This has been an excessive consultation period. That a response from the government in an extremely important area of policy has taken two years so far and has still not emerged despite the Minister's evidence to us in April that the government intended to issue its response for public consultation in the Autumn, is deeply unsatisfactory. We urge the government to respond to the issues raised by Sir George Quigley in his report without further delay.**

### The recommendations of Sir George Quigley's report

24. The report presented three options for the future management of parades. The first option is to maintain the current framework but extend the Commission's remit to cover

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Ireland, including the Ulster Bands Association, the Loyalist Band Association, the Northern Ireland Pipe Band Association and the Flute Band League of Northern Ireland: Independent Review of Parades and Marches, Dr Peter North 1997, p28

31 Review of the Parades Commission and Public Processions (Northern Ireland) Act 1998, p 38, para 1.1

32 Ev 102

33 Northern Ireland Office, 2004 Departmental Report, para 5.31

static protests about parades. Sir George Quigley also suggests that there should be “linkage of determinations” so that a preliminary view could be formed on the quantity of parades expected in a particular area over a season. Parade organisers would have greater responsibilities in relation to the management and conduct of parades.

25. The second option proposes that some contentious routes should be closed to parades at least for the foreseeable future on the grounds of the history of sectarianism and harassment surrounding them, the demography of areas adjoining the route, and a consensus within those areas that parades are unwelcome. Sir George Quigley expressed doubts about this option because he felt that “denying access to certain routes on the basis of considerations closely linked to demography would consolidate and strengthen the trend towards segregation and separation which is already so strong in many spheres in Northern Ireland.”<sup>34</sup> He also believes that imposing a blanket ban on certain routes would breach the Human Rights Act 1998 and the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>35</sup>

26. The third option, and the one adopted in the report, involves a radical reshaping of the existing regulatory machinery to address concerns raised with Sir George Quigley in his review about the Commission’s work and processes, for example, mediation and transparency.

### ***Separation of functions***

27. The report’s principal recommendation is that the Parades Commission’s function on determination on the one hand, and promotion and facilitation of mediation on the other, should be separated between two new bodies: a parades facilitation agency which would perform a mediation role, and an independent rights panel for parades and protests (‘the rights panel’) which, where mediation fails, would make determinations. These bodies would supersede the Parades Commission.<sup>36</sup> Sir George Quigley argues that separating these functions institutionally is necessary to ensure the determination stage is not perceived as “simply an extension of the ‘settlement’ process attempted without success at the facilitation stage.”<sup>37</sup>

28. His report emphasises that determination should be a stage of last resort. Where a settlement has not been reached at the facilitation stage, the rights panel would determine whether restrictions should be placed on the right to freedom of peaceful assembly with reference to some of the qualifications of the right in Article 11(2) of the ECHR.<sup>38</sup>

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34 Review of the Parades Commission and Public Processions (Northern Ireland) Act 1998, Sir George Quigley, p 124, para 11.13

35 Commonly referred to as the European Convention on Human Rights (ECHR). References throughout are to the ECHR

36 Northern Ireland Office Ev 101

37 Ibid p 235, para 21.5

38 See paragraph 41

## The Parades Commission or the Quigley model

29. **Our inquiry uncovered considerable evidence that the Parades Commission has made steady, if slow, progress in difficult circumstances.** The Community Relations Council told us that the Commission has acquired valuable expertise and experience in dealing with the issues surrounding parades.<sup>39</sup> The Northern Ireland Office pointed to the steady decline in the number of contentious parades, the result of the Commission's work in encouraging parties to engage constructively to secure local accommodations to parades disputes.<sup>40</sup>

Parades 1 April–31 August in 2003 and 2004<sup>41</sup>

	2003	2004
Total number of Parades	2,596	2,729
Contentious	182	165
“Loyalist/Loyal Order”	2,054	2,050
“Nationalist”	42	54
“Other”	500	625
“Loyalist/Loyal Order”, “Nationalist” and “Other” are broad terms used for informal categorisation		

Source: Parades Commission

30. The Chairman of the Parades Commission, Sir Anthony Holland, was clear that it was “getting the best out of what is a difficult situation”<sup>42</sup> and that further progress could be achieved.<sup>43</sup> He thought that reviews of the Commission's work hampered its effectiveness.<sup>44</sup> The Commission pointed to its successes, in particular to the mediation structure which has been used successfully to resolve the difficulties over contentious routes such as Garvaghy Road and which, it argued, has operated more successfully than previous mediation attempts.<sup>45</sup>

31. A number of witnesses identified the 2003 marching season as the most peaceful in recent years<sup>46</sup> and attributed this to work by a number of bodies including the Parades Commission.<sup>47</sup> However, the Ulster Unionist Party (UUP) considered that the relative peacefulness of 2003 was the result of combined political and community efforts on the ground and expressed concerns about the lack of confidence among the Unionist community in the Parades Commission.<sup>48</sup> This lack of confidence was rooted in its concern about the lack of transparency in the Commission's decision-making process,<sup>49</sup> and

39 Ev 118

40 Ev 101

41 See Ev 142 The 2004 figures are provisional and subject to revision. The Commission will update these figures and publish them in their 2003-04 annual report

42 Q 213

43 Q 197

44 Ev 84

45 Q 213

46 Ev 101 Q 206

47 Q 206

48 Q 141

49 Qq 143, 153

because of a perception that the Commission operated a system which was weighed in favour of “the protestor or the disruptor”.<sup>50</sup>

32. With the exception of an outbreak of violence in the Ardoyne area of North Belfast,<sup>51</sup> the 2004 marching season was also relatively peaceful.<sup>52</sup> Contentious parades, such as the ‘Tour of the North’ in North Belfast and the ‘Whiterock’ in West Belfast, took place without disturbance. The Commission identified a number of positive developments emerging from this year’s marching season including, a decline in the number of contentious parades from 2003 to 2004,<sup>53</sup> more constructive dialogue between the Commission and members of the Loyal Orders, and mediated dialogue which it had facilitated between Nationalists, Republicans and members of parading organisations.<sup>54</sup> It explained that this work has considerable potential “in terms of educating, informing and building communication and understanding, which is vital to peaceful outcomes on the ground”.<sup>55</sup> The Chief Constable of PSNI, Hugh Orde, also commented positively in the press about this year’s marching season.<sup>56</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.”<sup>57</sup>

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 overhaul 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.”<sup>58</sup> 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

50 Q 150

51 The outbreak of violence in the Ardoyne, a Nationalist area of North Belfast, was the consequence of a decision by the police to escort followers of an Orange Order parade past the “Ardoyne shops”. This is discussed further at para 59

52 Ev 137

53 Ev 142

54 Ev 138

55 Ev 138

56 The Chief Constable said “If you step back from the situation, you will see Northern Ireland experienced an overwhelmingly peaceful marching season for the second year in a row...The reason for this was the level of engagement by all the parties, the negotiation beforehand and the commitment and commonsense of the overwhelming majority to stick to the agreements reached and the determinations made. I would contend our professional, proactive and proportional policing made a major contribution to this year’s generally peaceful outcome”: *£millions to police relatively peaceful season*, Newsletter, 3 September 2004 p17

57 Q 164

58 Ev 150

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”.<sup>59</sup> 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.<sup>60</sup> The Council considered that the appropriate way forward was to tighten the Commission’s existing procedures, rather than rebuild them.<sup>61</sup> Democratic Dialogue was emphatic that the argument was not about abolishing the Commission but making it work better.<sup>62</sup> The Garvagh Road Residents Coalition considered that the Commission had “succeeded in changing the climate” of contentious marches.<sup>63</sup> 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.”<sup>64</sup>

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.<sup>65</sup> 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.”<sup>66</sup>

**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.**

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59 Q125

60 Q 124

61 Q 125

62 Q125

63 Ev 128

64 Q 242

65 Ev 86

66 Q 308

## Improving the Commission

37. While we were not persuaded that the Parades Commission model should be abandoned, many respondents, including the Commission itself, thought that the present arrangements could be improved.

38. The CAJ was critical that the Commission had not been more successful in its role in promoting understanding of parades amongst the general public.<sup>67</sup> Sir George Quigley lays stress on the Commission's education role in his report and makes an number of proposals.<sup>68</sup> **We believe that the Parades Commission's role of promoting the understanding of parades to the general public is vitally important but is one of extreme difficulty where sensitivity, patience and high qualities of imagination are required. Success in this work will help foster mutual understanding and a lessening of tension which, in turn, makes voluntary local solutions to disputed parades more likely. There are unlikely to be any easy or quick gains for the Commission here, and it will require to demonstrate a creative approach if it is to avoid merely reinforcing entrenched positions. The Committee was told of a "learning venture" involving representatives of both communities which took place under Commission auspices in South Africa. While solutions for UK problems need to be forged in the light of local circumstances, the willingness to look at the parallel problems and solutions of others should be encouraged where relevant. The Commission needs to redouble its efforts in discharging its responsibility to promote understanding about parades to help assist the community as a whole to work towards the achievement of the peaceful resolution of disputes.**

39. Sir Anthony Holland told us that he saw more positive cooperation with parade organisers as key to the Commission achieving further progress.<sup>69</sup> He pointed out that the Commission engages with Loyal Orders, for example, the Royal Black Preceptory, and that progress has been made as a consequence.<sup>70</sup> However, the Orange Order has yet to engage formally with the Commission and Sir Anthony considered that this was the single most important issue presently faced by the Commission.<sup>71</sup> We heard from Mr Robert Saulters, Grand Master of The Grand Lodge of Ireland, that two years ago the Orange Lodge had begun correspondence with the Parades Commission to complain about Commission decisions. We also heard that these exchanges were less than fully satisfactory and that both parties had failed to register some replies to their communications.<sup>72</sup> The Order does not permit Grand Lodge officers to meet the Commission "as we had seen them from the very start as a go-between for the police."<sup>73</sup> **We believe that the Orange Order's policy of not engaging wholeheartedly with the Parades Commission has hampered the Commission in promoting and facilitating mediation and has hindered the prospects of achieving resolutions to parade disputes. The importance of the Orange Order engaging in direct**

67 Ev 149. Qq 113,114

68 Review of the Parades Commission and Public Processions (Northern Ireland) Act 1998, Sir George Quigley, pages 278-280, para 25

69 Q 198

70 Ev 54

71 Q 198

72 Qq 237,238

73 Q 237

**dialogue with the Commission cannot be overestimated, and we call upon it again to do so.**<sup>74</sup>

40. In July 2004, following the outbreak of violence in the Ardoyne, the North and West Belfast Parades Forum was formed, representing a range of Unionist opinion including, loyalist organisations, Unionist leaders, and members of the Orange Order. The Forum quickly announced that it would engage in dialogue with Nationalist residents using the Parades Commission as a go-between. At the same time, the Parades Dialogue Group was set up in the Ardoyne, North Belfast, representing Nationalist opinion. The Parades Commission has welcomed the establishment of both organisations, indicating that it would support dialogue between these groups which, in its view, held “considerable potential for moving forward”.<sup>75</sup> **We warmly welcome the creation of the North and West Belfast Parades Forum and the Parades Dialogue Group which demonstrates a willingness on the part of the local residents from both main traditions to engage in dialogue. We believe that co-operation between the Parades Commission, the North and West Belfast Parades Forum and the Parades Dialogue Group is vital to achieving resolutions to parade disputes in Belfast, and also provides a highly relevant model for dispute resolution throughout Northern Ireland. The Commission’s continuing commitment to these arrangements will be extremely important.**

## Human rights

41. Sir George Quigley’s report emphasises that neither the rights of those who wish to parade, nor of those who object to parading, are absolute. In order to make this clear, the report recommends that the 1998 Act should be amended to include Article 11 of the ECHR (freedom of assembly and association); and that section 8(6) of the 1998 Act should be replaced with a provision framed similarly to Article 11(2)<sup>76</sup> which sets out the restrictions placed on the right to freedom of peaceful assembly necessary in a democratic society:

- (i) for the protection of the rights and freedoms of others or for the protection of health or morals; **or**
- (ii) in the interests of national security or for the prevention of disorder or crime.

42. The rights panel would be responsible for determining whether restrictions should be placed on the right to freedom of peaceful assembly for the protection of health or morals, or for the protection of the rights and freedoms of others, and the police would then be required either to implement the determination, or determine, on the basis of public safety considerations, that they could not do so.<sup>77</sup> The police would have no input into the rights

<sup>74</sup> Northern Ireland Affairs Committee, Second Report of Session 2000-01, *The Parades Commission*, HC120, para 47

<sup>75</sup> Ev 138

<sup>76</sup> Article 11(2) of the ECHR provides that no restrictions shall be placed on the exercise of the rights contained in Article 11(1): “other than as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state”

<sup>77</sup> Review of the Parades Commission and the Public Processions (Northern Ireland) Act 1998, Sir George Quigley, p233, para 20.17

panel decision which would be based only upon “the conflict of rights issues with which the panel would be exclusively concerned.”<sup>78</sup> Were the police to consider that they “could not in any particular case protect the decision by the Rights Panel they would ...impose such restrictions on a parade as they deemed necessary on public safety etc grounds.”<sup>79</sup>

43. We received a great deal of evidence which expressed disquiet about Sir George Quigley’s recommendation to incorporate Article 11 of the ECHR into the 1998 Act. Many questioned the rationale for including Article 11 because the Parades Commission, as a public authority, is already obliged under section 6(1) of the Human Rights Act 1998 to act within the Convention rights, including Article 11.<sup>80</sup> Not only did we receive evidence that the incorporation of Article 11 would not change the legal position, we were told that it could be misleading to over-emphasize Article 11 in this way. The Garvaghy Road Residents Coalition considered that the Quigley report provided no clear rationale for incorporating only Article 11 and excluding other relevant Articles.<sup>81</sup> The Community Relations Council told us that identifying only one Convention right in the 1998 Act would have the effect of oversimplifying the approach to human rights and divert attention from the task of “balancing of rights within the Convention.”<sup>82</sup>

44. We also heard deep concerns about the report’s further recommendation to divide the responsibility for determining whether restrictions should be placed on the right to freedom of peaceful assembly between two separate bodies, the police and the proposed rights panel. We were told that this would create unnecessary legal confusion.<sup>83</sup> For example, Professor Hadden of the Northern Ireland Human Rights Commission (NIHRC) said:

“Sir George Quigley has sliced Article 11(2) in two and given one bit of it to one panel and another bit to PSNI – and our view is that that is likely to make matters worse rather than better because there will be two bodies involved in the decisions and any judicial hearings will get even more complicated – rather than having a single body determining the full range of Article 11 and particularly the limitations under Article 11(2)”.<sup>84</sup>

In addition, the fear was expressed by the Community Relations Council that any replacement organisations would take a long time before functioning fully.<sup>85</sup>

45. The Parades Commission thought that isolating national security, public safety and, crime and disorder from the other considerations in Article 11(2) “will focus the debate

78 Ev 83

79 Ev 83

80 It is unlawful for a public authority to act in a way that is incompatible with a Convention right, section 6(1) of the Human Rights Act 1998; Q 115

81 Ev 129

82 Q 155. A number of other, potentially conflicting, rights might be relevant to the Commission’s work. For example, the right to respect for private and family life in Article 8; and for freedom of thought, conscience and religion in Article 9

83 Qq 46, 63, 116

84 Q 63

85 Q125

once again on the relative weight of disorder from each tradition”.<sup>86</sup> In the Commission’s view, this recommendation “has the potential to set back the clock by about six years”.<sup>87</sup>

46. Sir George Quigley states that he received evidence from both sides of the community that protest meetings should be within the scope of the Parades Commission, not the police. The freedom to protest, he argues, is a vital aspect of the right to freedom of assembly and should be affirmed in the 1998 Act and be subject to similar restrictions to those in Article 11(2). Responsibility for determining whether a protest meeting should proceed would rest with the rights panel.

47. We heard a number of different views on this proposal to handle protests about parades. The CAJ questioned Sir George Quigley’s view that parades and protests together represent the “totality of the event”, arguing that there are very few instances in which a specific protest can be matched with a particular parade and that some protest meetings are peaceful and have no direct link to a specific parade.<sup>88</sup> The Grand Orange Lodge of Ireland argued that, under the existing arrangements, the PSNI reaches a decision on whether to impose conditions on a protest meeting after the Commission makes its determination and that, in its view, the Commission’s determinations are designed “to ensure that the PSNI does not need to impose any conditions on the related protest meeting.”<sup>89</sup> It argued that these arrangements weighed in favour of the protestor. While the NIHRC recognised that it could seem illogical for the Parades Commission to make determinations on parades under the 1998 Act while the PSNI is responsible for decisions about protests under the Public Order (Northern Ireland) Order 1987,<sup>90</sup> it did not propose that the Commission’s powers should be extended to cover protests.

**48. The Parades Commission is already required by Section 6(1) of the Human Rights Act 1998 not to act in a way that is incompatible with the Convention rights including the right to freedom of assembly. We believe, therefore, that amending the Public Processions (Northern Ireland) Act 1998 is unnecessary, would overemphasize Article 11, and detracts from the other Convention rights which should be balanced with it.**

**49. We do not support Sir George Quigley’s recommendation that responsibility for determining restrictions on parades should be divided between the police and the rights panel proposed in his report. We believe that dividing the Article 11(2) restrictions on the right of freedom of assembly between the two bodies would be likely to risk unnecessary complexity and potential confusion without offering clear advantages. The implementation of any such change could also be time-consuming and this risks a loss of impetus in the work of facilitating parade disputes at a time when it is important that the existing efforts are increased.**

**50. Opinion we heard was divided sharply on whether the same body should have responsibility for decisions about parades and protests. On balance we recommend that the same body should be responsible for such decisions, but government should**

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86 Ev 99

87 Ev 99

88 Ev 147

89 Ev 105

90 Ev 157

**consider the arguments and take a view on whether or not changes to the present arrangements could assist in lessening the tensions surrounding parades.**

## **Public order**

51. The report of Sir George Quigley recommends that “The police should determine whether any restriction needs to be placed on the exercise of the right to freedom of peaceful assembly in the interests of national security or public safety or for the prevention of disorder or crime”.<sup>91</sup> Many witnesses considered that this recommendation would simply replicate the pre-Parades Commission arrangement whereby the police made the decision on whether a parade should be allowed and then enforced that decision.<sup>92</sup> The NIHRC pointed to the benefits of the current arrangements which allow the police “to use their professional skills in enforcing communally contentious decisions made by an independent body rather than having to make and then enforce their own decisions.”<sup>93</sup> This view was shared by the CAJ which explained why the separation of parades decisions from enforcement was important:

“...one of the most important legislative advances in recent years has been the clear separation made between decision-making and policing the decisions once made. The Parades Commission is currently responsible for the first, and the police for the latter. This clear delineation of roles has protected the police from some of the charges of political partisanship of the past. This is an improvement both in natural justice terms, and in removing the police from a highly contentious position where marches or protesters, and sometimes both, were angry with the police because of their decision to allow or impede a parade.”<sup>94</sup>

52. The Parades Commission thought the police would find it difficult to assess when the prevention of disorder justifies a restriction on the right to freedom of peaceful assembly when, in reality, all of the permissible restrictions contained in Article 11 (2) of the ECHR, and other competing rights overlapped and should be considered together.<sup>95</sup> It also considered that a cross-community body was better placed than the police to determine when a parade should proceed in the face of likely disorder. It did not challenge the present power of the police to take decisions in extreme circumstances.<sup>96</sup>

**53. The PSNI made it clear to us that they have no desire to be perceived as having responsibility for making decisions about parades based on public order considerations:**

“We are not seen to be judge and, to a certain extent, the person who carries through the result... There is a separate body now that makes the decision and I think that has been very important. The Commission can reflect not just on the public order

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91 Review of the Parades Commission and Public Processions (Northern Ireland) Act 1998, Sir George Quigley, p302

92 Qq 116, 138, 302

93 Ev 156

94 Ev 147

95 Ev 100

96 Ev 100

aspects but all other aspects of community impact...and I think it is important to be able to balance all of those before coming to a final decision.”<sup>97</sup>

54. We heard concerns about wider implications of the police appearing to become involved in parades determinations. The SDLP thought that this could threaten the considerable progress which has been made since the report of the Independent Commission on Policing for Northern Ireland (“The Patten report”)<sup>98</sup> in building a more acceptable police force in Northern Ireland.<sup>99</sup> The CAJ warned that placing the police at the heart of a highly politicised debate is “not in the long term interest of good policing”.<sup>100</sup> The Minister, Mr Ian Pearson, expressed reservations to this recommendation in trenchant terms:

“I must admit that I am very wary of this recommendation. Even if you accept Quigley’s argument that a rights panel should not allow public order issues to form part of their considerations, I think obliging the police to make the decision would not be appropriate. In a matter as contentious as parades, there might well be a problem with a single body, such as the Police Service of Northern Ireland, having responsibility for making a decision and then having to enforce it.”<sup>101</sup>

**55. We understand that Sir George Quigley’s proposal is not intended to duplicate the pre-1998 position in which the police were responsible for determining restrictions on parades and for implementing them. Nevertheless, his proposal that responsibility for decisions on any restrictions to be imposed in the interests of national security or the prevention of disorder or crime should revert to the police risks placing the police in an extremely exposed position. It already appears to many who gave evidence to us that this proposal involves the resumption by the police of their previous role. In our view it is an essential condition of further progress in the peaceful resolution of parades disputes for the police to be perceived as occupying a neutral position in decisions about parades.**

**56. We also think that there continues to be great potential benefits from a single body examining all the relevant considerations before a decision is taken on whether or not to place restrictions on a parade. These benefits could be much greater if the reasons for decisions were set out more plainly than at present. We are also concerned that there would be additional problems of co-ordination between the police and any rights panel under the proposals made by Sir George Quigley, and such a fragmentation of responsibilities would introduce further complexity and potential confusion.**

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97 Q 274

98 The Patten report made a number of recommendations for improving the accountability of the police service in Northern Ireland, including setting up the Office of the Police Ombudsman for Northern Ireland to provide an independent service to the public about the conduct of police officers; the creation of a policing board to hold the Chief Constable and the police publicly accountable for the performance of their functions; and the appointment of an independent oversight commissioner to ensure that the recommendations of the report were implemented comprehensively and faithfully and to assure the community that all aspects of the report are being implemented

99 Ev 162

100 Ev 104

101 Q 302

### Political decisions

57. We considered whether Ministers should be involved in the determination process. The NIHRC told us that they were in favour of sidelining the role of the Secretary of State in this area.<sup>102</sup> The NIHRC considered that if the Secretary of State or an elected politician were to become involved, parades would remain a “contested arena”.<sup>103</sup> The Minister, Mr Ian Pearson, told us that “by far the best way” of dealing with parades was to have “local solutions”:

“I think trying to do things at a Secretary of State level would create problems in its own right. I do not believe that the Secretary of State should be routinely involved in making decisions on parades. I think that is correctly a matter for a separate body, currently the Parades Commission.”<sup>104</sup>

**58. We received no evidence that Ministers should be involved routinely in the determination of parades. The fundamental function of the Parades Commission is to facilitate local solutions to parading problems. The involvement of the Commission itself is a necessary ‘half way house’ to encourage and develop local solutions to local problems. We consider that the government is right to be wary of becoming involved in the determination of parades. This would be likely to be widely perceived as a backward step. While we consider that the Secretary of State’s present ‘last resort’ powers of determination are sensible, it would in our view be inappropriate for routine decisions about parades to be perceived as being politically directed and we recommend that there should be no change to the status quo.**

### Parade followers

59. The debate in the press in Northern Ireland which followed the outbreak of violence in the Ardoyne on 12 July 2004 focused on the issue of parade followers<sup>105</sup> and, in particular, the lack of clarity over their status. That outbreak of violence was the result of a decision by the police to escort followers of an Orange Order parade to pass by shops in the Ardoyne which is a predominantly Nationalist area of North Belfast.<sup>106</sup> The Parades Commission’s determination in relation to that parade provided that only members of the Orange Order and marshals<sup>107</sup> would be allowed to pass through the shops area.

60. Nationalist residents argued that the decision by the police to escort the followers past the Ardoyne shops breached the Parades Commission’s determination. In written correspondence,<sup>108</sup> the Parades Commission explained that it has powers under the 1998

102 Q 66

103 Q 68

104 Q 303

105 Parade followers, also referred to as parade supporters, do not participate in parades but provide support to parades: see Ev 154

106 Ev 139

107 In 1999, the report of the Independent Commission on Policing for Northern Ireland (‘The Patten Report’) recommended that it should be a condition for the approval of a parade that parade organisers should provide their own marshals. Their role is to assist parade organisers in their parades, providing direction and ensuring the safety of parade participants and bystanders

108 Ev 140

Act only in relation to parade organisers and those participating formally in a parade, not followers. The Commission gave us evidence<sup>109</sup> that “the Commission was empowered to place restrictions and conditions on the parade organiser and parade participants only. A follower, who was not a participant, was not subject to the terms of a Commission determination”.<sup>110</sup> The Commission considers that the issue is one which requires to be addressed by the Northern Ireland Office as there is “no legal solution to the problem within the current legal framework”.<sup>111</sup>

61. The absence of a provision on followers in the existing legislative framework has led to calls for the 1998 Act to be amended and for the law in relation to parade followers to be clarified so that incidents like the Ardoyne disturbance do not recur. The PSNI Chief Constable has been reported in the press as saying that the issue must be clarified in advance of next year’s marching season.<sup>112</sup> We note also that the Secretary of State for Northern Ireland is reported to have said that “the Government should certainly examine whether there is a need to review legislation to make sure it is effective, particularly with regard to supporters”.<sup>113</sup>

**62. There is a lack of clarity about the status of followers which requires immediate consideration. The government needs to ensure in its review of the existing legislation that there is sufficient clarity about followers in advance of next year’s marching season.**

## Transparency

63. The Quigley report states that people from both communities expressed concerns about the transparency of the Parades Commission’s decision-making. On the Nationalist side, it was argued that there was a need both for greater consistency and transparency in the Commission’s decisions, and for an open and transparent evaluation of its guidelines criteria.<sup>114</sup> On the Unionist side, parade organisers contended that the Commission has used its confidentiality rule (rule 3.3)<sup>115</sup> as an excuse to withhold information from them about the objections being raised in relation to particular parades. The report noted that the “system of criteria”<sup>116</sup> by which the Parades Commission makes a determination “is characterised by too much complexity and insufficient clarity”<sup>117</sup> and recommends that new guidelines should be prepared setting out the factors to be taken into account at the determination stage.

109 Ev 140

110 Ev 140

111 Ev 140

112 Newsletter 3 September 2004 p 17

113 *Parades Law may be toughened: Murphy* Irish News 23 July 2004 p1

114 Review of the Parades Commission and the Public Processions (Northern Ireland) Act 1998, Sir George Quigley, p 194, para 16.2

115 Rule 3.3 of the Commission’s procedural rules provides: 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

116 The system of criteria refers to the Commission’s guidelines and the rights it regards as relevant under the European Convention of Human Rights

117 Review of the Parades Commission and the Public Processions (Northern Ireland) Act 1998 p 179, para 15.12

64. The transparency of the Commission’s decision-making was a key concern for many of those who gave evidence to us too. The Apprentice Boys of Derry and the Grand Orange Lodge of Ireland expressed frustration that the Parades Commission failed to make them aware of the objections that were being raised in relation to proposed parades.<sup>118</sup> Sir Anthony Holland told us that the Commission “now makes a clear and firm point of indicating to parade organisers what the objections are.”<sup>119</sup> The Commission’s view was that the failure of many parade organisers to engage with it was “the single biggest impediment to transparency”<sup>120</sup> and warned that messages relayed “through third parties...can become confused”.<sup>121</sup>

65. The Commission laid particular stress upon the importance of maintaining the confidence of those who approach it to share their views on parades:

“There is a clear security dimension here. One cannot overlook the fact that people, if they are identified or associated with certain views, would feel that their personal safety had been compromised. It is likely that only those offering more extreme views or those in the public view already, would be robust enough to want to be associated personally with their information or evidence.”<sup>122</sup>

The NIHRC recognised the importance of withholding the identity of individuals where their lives might be put at risk, but supported making the “substance of objections” more “obvious and accessible” to parade organisers.<sup>123</sup> It considered that parade organisers are currently “left in the dark” about the reasons why proceeding with a parade might cause difficulties in community relations and, as a result, “are not able to answer the punitive objections”.<sup>124</sup>

66. We heard deep concerns about the recommendation of Sir George Quigley’s report to introduce hearings at which parties to a parades dispute would present their case. The Garvaghy Road Residents Coalition considered that such hearings would be adversarial which could exacerbate the differences between “marchers and residents” and discourage individuals with concerns from coming forward because of fears about their safety.<sup>125</sup>

67. However, many respondents thought that there was a particular lack of transparency about the Commission’s determinations. They also expressed concerns about the lack of transparency about the advice which the Commission receives from the police.<sup>126</sup> We heard evidence that these do not provide sufficient detail about the reasoning which underpin the Commission’s decisions.<sup>127</sup> The CAJ told us that the Commission’s determinations were “formulaic” and rarely gave satisfactory explanations of the problems associated with a

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118 Qq 101, 256

119 Q 199

120 Ev 85

121 Q 199

122 Ev 88

123 Q 49

124 Qq 49, 72

125 Ev 133

126 Ev 133

127 Qq 23, 135, 183

parade and the human rights considerations underlying the Commission's determination.<sup>128</sup>

68. We were told by the SDLP that the Commission's determinations should provide an explanation of the advice which they receive from the police "without prejudice to whatever their security considerations might be".<sup>129</sup> We heard from the CAJ that the Commission does not make available information about whether its determinations have been complied with, or information about the number of prosecutions which have resulted from incidents of public disorder.<sup>130</sup> As we noted earlier, the Unionist community's lack of confidence in the Commission is rooted in a perceived lack of transparency and suspicions of bias on the part of the Commission.<sup>131</sup>

69. Sir George Quigley considered that the criteria which the Parades Commission uses to base its determinations is complex and unclear,<sup>132</sup> and recommended that new guidelines be prepared including: the nature of the parade, arrangements for it, characteristics of any contested part of the route, and the potential for disruption, and any other matter affecting the rights and freedoms of others under international human rights agreements and the general law.<sup>133</sup> However, fears were expressed that these proposals to substitute the present guidelines were "totally undefined" and leave room for "uncertainty and disagreement", and that in their present form would fail to improve the clarity of the Commission's determinations.<sup>134</sup> The CAJ considered that if the redrafting of the guidelines was to go ahead then an extensive consultation would be required. There was a further concern that a rewriting exercise would break up the present position which was that the definitions contained in the present guidelines "over time...have come to have relatively accepted meanings for all the parties concerned."<sup>135</sup> While our evidence was that the present guidelines were not perfect,<sup>136</sup> we did not detect any appetite for wholesale replacement.

70. The Parades Commission pointed to a number of ways of improving the transparency of their decision-making. For example, it has begun to write to parade organisers to ensure that "any allegations or complaints about a particular parade are received in plenty of time for the organiser to respond to the allegation or to seek to correct the problem before the next parade is due to take place".<sup>137</sup> The Commission believes that this activity could be strengthened by having a dedicated "compliance and post mortem" unit within the Commission to provide feedback to parade organisers on the main issues brought to the Commission's attention.<sup>138</sup> The Minister told us that he understood the frustrations of

128 Q135

129 Q183

130 Q135

131 See paragraph 31

132 See paragraph 16 for the current main criteria; Review of the Parades Commission and the Public Processions (Northern Ireland) Act 1998, p 179, para 15.12

133 Ibid p 186

134 Ev 146

135 Ev 146

136 For example, the Northern Ireland Human Rights Commission considered that the Guidelines should include a reference to toleration. Q 53

137 Ev 175

138 Q 205 Ev 86

parade organisers on the issue of transparency. While he recognised fully the vital importance of maintaining confidentiality “when it comes to producing decisions...there might be more that can be done in terms of making sure that those decisions are as transparent as possible but within the bounds of needing to ensure proper confidentiality where that is needed and, indeed, requested.”<sup>139</sup>

**71. We believe that the objections being raised about parades need to be made much clearer to parade organisers, including public order considerations where appropriate and possible. We recommend that the Commission include in its determinations fuller explanations and greater detail about the objections being raised in relation to particular parades, the potential impact of a parade on community relations, and the conclusions it reaches on human rights and public order.**

**72. People objecting to a parade should have the opportunity to register their objections formally and to make them available to parade organisers. However, the personal safety of those registering objections must never be put at risk, and their identity needs to be protected fully.**

**73. We welcome the Commission’s proposals to develop a “compliance and post mortem” unit to provide parade organisers with feedback on the key issues brought to the Commission’s attention, giving them the opportunity to resolve these issues in advance of the next marching season. We recommend that the Commission considers implementing this proposal quickly and in time for the 2005 marching season.**

**74. The existing guidelines on parades determinations appear to be operating adequately and we do not believe that a sufficiently strong case has been made out for completely new guidelines. However, the Commission should continue to keep its guidelines under review, as required by the 1998 Act, and should encourage wide debate on how they might be improved.**

## **Mediation**

75. Democratic Dialogue,<sup>140</sup> the Community Relations Council,<sup>141</sup> and the SDLP,<sup>142</sup> emphasised that the Commission should develop its mediation work.<sup>143</sup> In his evidence to us, Sir George Quigley drew attention to views that mediation and determination functions cannot be discharged by the same body without compromising the integrity of both functions.<sup>144</sup> A number of respondents supported the view of having a greater separation between these two functions.<sup>145</sup> While the NIHRC considered that separating the functions would be consistent with recent discrimination and equality legislation in the United Kingdom “which has sought to distinguish clearly between the roles of promoting equality or fair treatment and making formal adjudications on rights”, it pointed out there is “no

139 Q 311

140 Qq 118, 119

141 Q119

142 Qq 170, 171

143 See paras 77-80

144 Ev 81

145 Qq117, 118

international standard on this issue” and that the Paris Principles of the United Nations on National Human Rights Institutions accept that “national human rights institutions may have a role in making formal adjudications as well as in more general promotion and investigation.”<sup>146</sup>

76. The Parades Commission thought that it was “important for formal mediation processes to remain separate from the adjudication process”, but that a “complete separation of the work of Authorised Officers from that of the Commission would be unhelpful in terms of ensuring informed and sensitive decision-making.”<sup>147</sup> Sir Anthony Holland considered that the Commission avoided the “trap” of determinations being affected by authorised officers’ work because the nature of that work was pre-mediative, “engaging in an exercise of trying to make minds meet”, rather than mediation. While the Commission received information from the officers “which takes us almost up to the wire of being contaminated by the mediating process”, the Commission and its officers were not actually mediating but “merely engaging in an exercise of trying to make minds meet...”.<sup>148</sup>

**It is difficult to see how the Parades Commission could be properly informed in the absence of the reports of the Authorised Officers.**

77. We take the view that the precise affect on the management of parades of a ‘Chinese wall’ between the processes of mediation and determination, was less important in practice than ensuring that the Commission’s work as a whole, including both “pre-meditative” and determination aspects, ensured progressively more peaceful parades. We were alarmed, therefore, when Democratic Dialogue told us that parties to a parades dispute perceive mediation as a “box-ticking” exercise in which they participate in the knowledge that their level of participation will have a bearing, should mediation fail, on the outcome of the determination process. It argued that this danger strengthens the argument for “separating entirely the meditative and adjudicative functions”<sup>149</sup>, and that an independent mediation agency should be set up with the role of pursuing “the ideal of local accommodation” on a range of issues relating to the marking of “territorial boundaries (including flags, murals and other local disputes)”.<sup>150</sup> Such an agency would allow those issues to be considered together, ensuring that mediators are more in touch with the local context.<sup>151</sup> The SDLP told us that the Commission’s system of mediation could be upgraded by creating a mediation agency that would operate as part of the Parades Commission.<sup>152</sup> The party did not argue for enhanced separation of the mediation and determination functions, rather it believed that the mediation process should operate within an agency, operating alongside the Commission.<sup>153</sup> Sir Anthony Holland accepted that the present system may require re-examination but considered that now was not the time.<sup>154</sup>

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146 Ev 157

147 Ev 175

148 Ev 58

149 Q 118

150 Ev 121

151 Ev 121

152 Q 171

153 Q171

154 Q 213

78. The functions of mediation and determination need to be clearly distinguished. All the parties involved in these processes require to understand the part each has to play, the procedures involved, and the way in which these interact. Everyone must have confidence in the fairness and high quality of the processes and their outcomes. Mediation is the route by which local people may be assisted to resolve parade disputes themselves. While we are fully aware of the extreme difficulties in reaching voluntary agreements, and the continued need for parades determinations, such agreements are intrinsically more satisfactory than imposed solutions and must be encouraged by all means at the Commission's disposal. We agree with Sir George Quigley's view that the "underlying, long-term issues" between the communities of Northern Ireland will be solved only when a way is found to "live with difference".<sup>155</sup> This objective is realisable only when local people join together to solve disputes on a voluntary basis.

79. We are extremely concerned that mediation as practiced currently appears insufficiently rigorous and challenging, and is perceived by some as a "box-ticking" exercise in which parties engage simply to achieve the result they want. Such a process is fatally flawed and will not achieve lasting resolutions to parade disputes. We urge the Parades Commission to review and develop its approach to promoting and facilitating mediation as a matter of urgency. It is vital that the contribution to mediation offered by the Commission should be of the highest possible quality and capable of making a substantial and progressive contribution to the peaceful resolution of parades disputes. We therefore welcome the Parades Commission's commitment to strengthen its work to promote and facilitate mediation on the basis of existing good practice.

80. Authorised officers play a key role by providing an essential conduit of information between the two communities and the Parades Commission. It is clear that, without the reports of the officers, the work of the Commission would be seriously impaired. There are 12 officers working in pairs in different locations across Northern Ireland.<sup>156</sup> Their role was described to us carefully as "pre-mediation" rather than mediation<sup>157</sup>, seeking to gain in-depth insights into the attitudes and disputes of people living in areas where a parade is due to take place and to report those insights to the Commission.<sup>158</sup> The officers also explore with all parties the prospects of reaching agreement, how it can best be achieved and, where necessary, facilitate mediated engagement or dialogue.<sup>159</sup> Authorised officers were recruited and managed by Mediation Network for Northern Ireland<sup>160</sup> until 2001, since when they have been contracted by the Commission.<sup>161</sup>

81. Many respondents commented on the vital work which the officers carry out in highly charged circumstances, providing information about particular parades which would otherwise be unavailable to the Parades Commission.<sup>162</sup> Sir Anthony Holland said the

155 Q 7

156 Q 208

157 Q 208

158 Fifth Annual report of the Northern Ireland Parades Commission 2002-2003 p 6

159 ibid

160 The Mediation Network, now Mediation Northern Ireland, is a registered charity which was set up to promote the use of mediation in disputes in Northern Ireland and to train mediators in Northern Ireland

161 Q208

162 Qq 119, 120,208, 268

officers' work was "absolutely fundamental to whatever success we [the Commission] have and are able to claim."<sup>163</sup> The Commission considered that one of the officers' main strengths have been in having access to people who are unwilling to engage directly with the Commission, including band organisers and the loyal orders.<sup>164</sup>

82. The parading organisations told us that the quality of the officers varies. The Ulster Bands Association told us that some of the officers have been "very open and good"; by contrast others had been "almost impossible to deal with".<sup>165</sup> The Apprentice Boys of Derry considered that the authorised officers were "a very mixed bunch".<sup>166</sup> The Parades Commission told us that improving the consistency of the standard of officers is a priority and, if necessary, in the medium term it would recruit new officers.<sup>167</sup> The pool of people from which the Commission selects authorised officers could be broadened to include cross-community workers, business and other professional people. To provide appropriate training for new officers, the Commission suggested working with the Community Relations Council. It argues that this "would represent a wiser use of resources than the setting in place of a new and separate facilitation agency, for which demand may be limited".<sup>168</sup> The PSNI told us that the number of authorised officers should be increased, and that they should work in areas throughout the year not only in the run up to a parade.<sup>169</sup> In fact, the Parades Commission told us that officers carry out a significant amount of work locally during the "closed season",<sup>170</sup> although it acknowledged that there "could be more work, and maybe more facilitation".<sup>171</sup>

**83. We acknowledge the vital work carried out by the Authorised Officers of the Parades Commission in gathering information about the attitudes of people living in areas where a parade is due to take place and exploring the prospects of parties to a parade dispute reaching agreement. We welcome the Commission's proposals to widen the pool from which it selects Authorised Officers as a means of strengthening its commitment to successful mediation. We also recommend that the Commission considers increasing the number of Authorised Officers in designated areas.**

## Notice requirements

84. Under existing arrangements parades must be notified normally 28 days in advance.<sup>172</sup> Sir George Quigley recommends that notification should, wherever possible, take place prior to 1 October each year, or no less than six months before the parade is due to take place. He argues that this would give the facilitation process a reasonable prospect of

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<sup>163</sup> Q 208

<sup>164</sup> Q 208

<sup>165</sup> Q 90

<sup>166</sup> Q 92

<sup>167</sup> Q 208

<sup>168</sup> Ev 175

<sup>169</sup> Q 268

<sup>170</sup> Q 222

<sup>171</sup> Q 222

<sup>172</sup> See paragraph 13

success. He also recommends that those wishing to protest should serve notice of protest within two weeks of the issue of a determination.<sup>173</sup>

85. Many witnesses expressed reservations about this recommendation. For example, we heard evidence from Democratic Dialogue that the existing requirement to give 28 days notice of a parade was reasonable and operated effectively.<sup>174</sup> Sir Anthony Holland's view was that serving notice too far in advance of a parade had drawbacks because forming a preliminary view "based on an early application would be tricky".<sup>175</sup> The Commission already deals with a significant number of late notices and it considered that there "would have to be, at the very least, a facility for many parades to be notified late".<sup>176</sup>

86. The parading organisations warned that serving notice far in advance of the marching season was impracticable. The Ulster Bands Association told us that most bands break from practice for two to three months at the end of the season, usually during October, November and December, making notice before 1st October unlikely.<sup>177</sup> The view of the Grand Orange Lodge of Ireland was that Sir George Quigley's proposed notice period would be "exorbitant and unjustified".<sup>178</sup> The Minister, Mr Ian Pearson, pointed out that the majority of parades were not contentious and that the number of determinations imposing conditions relatively low, both factors which would require consideration before "moving to a rigid system of substantially lengthy early notification".<sup>179</sup>

**87. We believe that the case in Sir George Quigley's report for extending the period of notification of a parade has not been made out, that there is considerable evidence that the existing notice period of 28 days is reasonable, and that extending the period could raise serious practical difficulties for parade organisers and the Parades Commission.**

## Bands

88. The Government has not exercised its power under section 12 of the 1998 Act<sup>180</sup> to provide for the registration of bands. Sir George Quigley suggests that when the 1998 Act was going through Parliament, the government indicated that it did not expect to invoke section 12 because the powers available to the Commission under the 1998 Act should allow it to deal with any problem. However, the report states that the Commission's powers have been insufficient to deal with the poor conduct of some band parades and recommends that a scheme of registration be introduced.

89. Sir Anthony Holland told us that while some bands behaved "impeccably", others "behave in a way which does not do anyone any credit".<sup>181</sup> The Commission explained that,

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173 Review of the Parades Commission and the Public Processions (Northern Ireland) Act 1998, Sir George Quigley, p 217, para 17.7

174 Q 127

175 Q 221

176 Ev 98

177 Q 100, Ev 116

178 Ev 108

179 Q 316

180 See paragraph 19

181 Q 226

aside from complaints about sectarianism and paramilitarism, they receive complaints about the “social and environmental impact of band parades”, including the timing of late-night parades and the abuse of alcohol at parades.<sup>182</sup> The PSNI told us that the absence of a register of bands makes it impossible to identify bands known to have behaved badly during a parade. That had made identifying people for prosecutions difficult, and the police supported the recommendation of Sir George Quigley’s report to introduce a scheme of registration for bands.<sup>183</sup> The Commission accepted the report’s recommendation for a scheme of registration for bands in principle, though it considered that setting up a register of bands was unlikely on its own to resolve the disorder associated with some band parades. It wished explore this issue with the police.<sup>184</sup>

**90. We note with concern the disruptive effect of some band parades and the lack of formal oversight arrangements. The Commission should make its proposed discussions with the police about the register of bands a priority. When these discussions are concluded, the government should consider exercising the power available to it under section 12 of the 1998 Act to introduce a scheme of registration for bands.**

## 4 Conclusion

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**91. A key aim of the Public Processions (Northern Ireland) Act 1998 is to encourage parties to a parades dispute, through the Parades Commission, to reach a local accommodation. Our inquiry has demonstrated that the Parades Commission has made progress in achieving that aim. While the overall number of parades has grown, the number of contentious parades in Northern Ireland has shown a steady decline, and there are positive signs of a greater willingness in parade organisations and residents groups to engage in direct dialogue to resolve disputes.**

**92. It is our strong view that the responsibility for decisions on restricting parades based on public order considerations should not revert to the police. If this were to happen, it is likely that the perception would grow that the police were again directly involved in the parades determination process. This would undermine the recent strides made to provide Northern Ireland with a police force anchored securely in all parts of the community. It is our view that greater openness on the part of the Parades Commission about the grounds of determinations, including public order considerations on which the advice of the police will have been taken, will assist in achieving the increase in police accountability which is quite properly demanded of a modern force.**

**93. Replacing the Commission with new organisational arrangements is likely to involve a lengthy period of uncertainty and disruption at a point where there is evidence that the present arrangements are working and there is the prospect of further progress. We do not consider that it is sensible to embark on fundamental organisational change unless there are obvious and proportionate benefits to be gained.**

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182 Ev 176

183 Q 281

184 Ev 176

Nor do we think it necessary to include the suggestion in Sir George Quigley's report that the Public Processions (Northern Ireland) Act 1998 should be amended to incorporate Article 11 of the European Convention on Human Rights and Fundamental Freedoms. To do so would have no new legal effect because the Parades Commission is currently required to act compatibly with the Convention rights as a whole, including Article 11.

94. The current activities of the Parades Commission should be improved. We were concerned by the depth of frustration felt by the parading organisations over the lack of detail provided by the Commission about objections to parades. This perceived lack of transparency has contributed to the low level of confidence which the Unionist community has in the Commission. Everything possible must be done to improve that confidence. We recognise the crucial importance of protecting the identity of those raising objections to parades. Imaginative improvements in transparency to make the nature of objections to parades clearer and more accessible to parade organisers need not compromise the security of objectors. By providing in its determinations fuller explanations about the conclusions it reaches on the impact of a parade on community relations, the Parades Commission will do much to help foster cross-community confidence in its operation. Wherever possible, public order considerations should be included in these explanations.

95. We believe that the Commission's involvement in mediation needs to be revitalised. A review of the process needs to be undertaken urgently, and the Commission's Authorised Officer cadre strengthened as a key part of a vigorous, proactive and, we trust, progressively successful mediation operation. The government must ensure that there are sufficient funds available to the Commission for this purpose.

## Conclusions and recommendations

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1. Although we understand that at first the government extended the consultation process to give some organisations more time to respond to the report by Sir George Quigley, the process has been running since November 2002 and was then 'left open'. This has been an excessive consultation period. That a response from the government in an extremely important area of policy has taken two years so far and has still not emerged despite the Minister's evidence to us in April that the government intended to issue its response for public consultation in the Autumn, is deeply unsatisfactory. We urge the government to respond to the issues raised by Sir George Quigley in his report without further delay. (Paragraph 23)
2. Our inquiry uncovered considerable evidence that the Parades Commission has made steady, if slow, progress in difficult circumstances. (Paragraph 29)
3. 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. (Paragraph 36)
4. We believe that the Parades Commission's role of promoting the understanding of parades to the general public is vitally important but is one of extreme difficulty where sensitivity, patience and high qualities of imagination are required. Success in this work will help foster mutual understanding and a lessening of tension which, in turn, makes voluntary local solutions to disputed parades more likely. There are unlikely to be any easy or quick gains for the Commission here, and it will require to demonstrate a creative approach if it is to avoid merely reinforcing entrenched positions. The Committee was told of a "learning venture" involving representatives of both communities which took place under Commission auspices in South Africa. While solutions for UK problems need to be forged in the light of local circumstances, the willingness to look at the parallel problems and solutions of others should be encouraged where relevant. The Commission needs to redouble its efforts in discharging its responsibility to promote understanding about parades to help assist the community as a whole to work towards the achievement of the peaceful resolution of disputes. (Paragraph 38)
5. We believe that the Orange Order's policy of not engaging wholeheartedly with the Parades Commission has hampered the Commission in promoting and facilitating mediation and has hindered the prospects of achieving resolutions to parade

disputes. The importance of the Orange Order engaging in direct dialogue with the Commission cannot be overestimated, and we call upon it again to do so. (Paragraph 39)

6. We warmly welcome the creation of the North and West Belfast Parades Forum and the Parades Dialogue Group which demonstrates a willingness on the part of the local residents from both main traditions to engage in dialogue. We believe that co-operation between the Parades Commission, the North and West Belfast Parades Forum and the Parades Dialogue Group is vital to achieving resolutions to parade disputes in Belfast, and also provides a highly relevant model for dispute resolution throughout Northern Ireland. The Commission's continuing commitment to these arrangements will be extremely important. (Paragraph 40)
7. The Parades Commission is already required by Section 6(1) of the Human Rights Act 1998 not to act in a way that is incompatible with the Convention rights including the right to freedom of assembly. We believe, therefore, that amending the Public Processions (Northern Ireland) Act 1998 is unnecessary, would overemphasize Article 11, and detracts from the other Convention rights which should be balanced with it. (Paragraph 48)
8. We do not support Sir George Quigley's recommendation that responsibility for determining restrictions on parades should be divided between the police and the rights panel proposed in his report. We believe that dividing the Article 11(2) restrictions on the right of freedom of assembly between the two bodies would be likely to risk unnecessary complexity and potential confusion without offering clear advantages. The implementation of any such change could also be time-consuming and this risks a loss of impetus in the work of facilitating parade disputes at a time when it is important that the existing efforts are increased. (Paragraph 49)
9. Opinion we heard was divided sharply on whether the same body should have responsibility for decisions about parades and protests. On balance we recommend that the same body should be responsible for such decisions, but government should consider the arguments and take a view on whether or not changes to the present arrangements could assist in lessening the tensions surrounding parades. (Paragraph 50)
10. The PSNI made it clear to us that they have no desire to be perceived as having responsibility for making decisions about parades based on public order considerations. (Paragraph 53)
11. We understand that Sir George Quigley's proposal is not intended to duplicate the pre-1998 position in which the police were responsible for determining restrictions on parades and for implementing them. Nevertheless, his proposal that responsibility for decisions on any restrictions to be imposed in the interests of national security or the prevention of disorder or crime should revert to the police risks placing the police in an extremely exposed position. It already appears to many who gave evidence to us that this proposal involves the resumption by the police of their previous role. In our view it is an essential condition of further progress in the

peaceful resolution of parades disputes for the police to be perceived as occupying a neutral position in decisions about parades. (Paragraph 55)

12. We also think that there continue to be great potential benefits from a single body examining all the relevant considerations before a decision is taken on whether or not to place restrictions on a parade. These benefits could be much greater if the reasons for decisions were set out more plainly than at present. We are also concerned that there would be additional problems of co-ordination between the police and any rights panel under the proposals made by Sir George Quigley, and such a fragmentation of responsibilities would introduce further complexity and potential confusion. (Paragraph 56)
13. We received no evidence that Ministers should be involved routinely in the determination of parades. The fundamental function of the Parades Commission is to facilitate local solutions to parading problems. The involvement of the Commission itself is a necessary ‘half way house’ to encourage and develop local solutions to local problems. We consider that the government is right to be wary of becoming involved in the determination of parades. This would be likely to be widely perceived as a backward step. While we consider that the Secretary of State’s present ‘last resort’ powers of determination are sensible, it would in our view be inappropriate for routine decisions about parades to be perceived as being politically directed and we recommend that there should be no change to the status quo. (Paragraph 58)
14. There is a lack of clarity about the status of followers which requires immediate consideration. The government needs to ensure in its review of the existing legislation that there is sufficient clarity about followers in advance of next year’s marching season. (Paragraph 62)
15. We believe that the objections being raised about parades need to be made much clearer to parade organisers, including public order considerations where appropriate and possible. We recommend that the Commission include in its determinations fuller explanations and greater detail about the objections being raised in relation to particular parades, the potential impact of a parade on community relations, and the conclusions it reaches on human rights and public order. (Paragraph 71)
16. People objecting to a parade should have the opportunity to register their objections formally and to make them available to parade organisers. However, the personal safety of those registering objections must never be put at risk, and their identity needs to be protected fully. (Paragraph 72)
17. We welcome the Commission’s proposals to develop a “compliance and post mortem” unit to provide parade organisers with feedback on the key issues brought to the Commission’s attention, giving them the opportunity to resolve these issues in advance of the next marching season. We recommend that the Commission considers implementing this proposal quickly and in time for the 2005 marching season. (Paragraph 73)

18. The existing guidelines on parades determinations appear to be operating adequately and we do not believe that a sufficiently strong case has been made out for completely new guidelines. However, the Commission should continue to keep its guidelines under review, as required by the 1998 Act, and should encourage wide debate on how they might be improved. (Paragraph 74)
19. It is difficult to see how the Parades Commission could be properly informed in the absence of the reports of the Authorised Officers. (Paragraph 76)
20. The functions of mediation and determination need to be clearly distinguished. All the parties involved in these processes require to understand the part each has to play, the procedures involved, and the way in which these interact. Everyone must have confidence in the fairness and high quality of the processes and their outcomes. Mediation is the route by which local people may be assisted to resolve parade disputes themselves. While we are fully aware of the extreme difficulties in reaching voluntary agreements, and the continued need for parades determinations, such agreements are intrinsically more satisfactory than imposed solutions and must be encouraged by all means at the Commission's disposal. We agree with Sir George Quigley's view that the "underlying, long-term issues" between the communities of Northern Ireland will be solved only when a way is found to "live with difference". This objective is realisable only when local people join together to solve disputes on a voluntary basis. (Paragraph 78)
21. We are extremely concerned that mediation as practiced currently appears insufficiently rigorous and challenging, and is perceived by some as a "box-ticking" exercise in which parties engage simply to achieve the result they want. Such a process is fatally flawed and will not achieve lasting resolutions to parade disputes. We urge the Parades Commission to review and develop its approach to promoting and facilitating mediation as a matter of urgency. It is vital that the contribution to mediation offered by the Commission should be of the highest possible quality and capable of making a substantial and progressive contribution to the peaceful resolution of parades disputes. We therefore welcome the Parades Commission's commitment to strengthen its work to promote and facilitate mediation on the basis of existing good practice. (Paragraph 79)
22. We acknowledge the vital work carried out by the Authorised Officers of the Parades Commission in gathering information about the attitudes of people living in areas where a parade is due to take place and exploring the prospects of parties to a parade dispute reaching agreement. We welcome the Commission's proposals to widen the pool from which it selects Authorised Officers as a means of strengthening its commitment to successful mediation. We also recommend that the Commission considers increasing the number of Authorised Officers in designated areas. (Paragraph 83)
23. We believe that the case in Sir George Quigley's report for extending the period of notification of a parade has not been made out, that there is considerable evidence that the existing notice period of 28 days is reasonable, and that extending the period could raise serious practical difficulties for parade organisers and the Parades Commission. (Paragraph 87)

24. We note with concern the disruptive effect of some band parades and the lack of formal oversight arrangements. The Commission should make its proposed discussions with the police about the register of bands a priority. When these discussions are concluded, the government should consider exercising the power available to it under section 12 of the 1998 Act to introduce a scheme of registration for bands. (Paragraph 90)
25. A key aim of the Public Processions (Northern Ireland) Act 1998 is to encourage parties to a parades dispute, through the Parades Commission, to reach a local accommodation. Our inquiry has demonstrated that the Parades Commission has made progress in achieving that aim. While the overall number of parades has grown, the number of contentious parades in Northern Ireland has shown a steady decline, and there are positive signs of a greater willingness in parade organisations and residents groups to engage in direct dialogue to resolve disputes. (Paragraph 91)
26. It is our strong view that the responsibility for decisions on restricting parades based on public order considerations should not revert to the police. If this were to happen, it is likely that the perception would grow that the police were again directly involved in the parades determination process. This would undermine the recent strides made to provide Northern Ireland with a police force anchored securely in all parts of the community. It is our view that greater openness on the part of the Parades Commission about the grounds of determinations, including public order considerations on which the advice of the police will have been taken, will assist in achieving the increase in police accountability which is quite properly demanded of a modern force. (Paragraph 92)
27. Replacing the Commission with new organisational arrangements is likely to involve a lengthy period of uncertainty and disruption at a point where there is evidence that the present arrangements are working and there is the prospect of further progress. We do not consider that it is sensible to embark on fundamental organisational change unless there are obvious and proportionate benefits to be gained. Nor do we think it necessary to include the suggestion in Sir George Quigley's report that the Public Processions (Northern Ireland) Act 1998 should be amended to incorporate Article 11 of the European Convention on Human Rights and Fundamental Freedoms. To do so would have no new legal effect because the Parades Commission is currently required to act compatibly with the Convention rights as a whole, including Article 11. (Paragraph 93)
28. The current activities of the Parades Commission should be improved. We were concerned by the depth of frustration felt by the parading organisations over the lack of detail provided by the Commission about objections to parades. This perceived lack of transparency has contributed to the low level of confidence which the Unionist community has in the Commission. Everything possible must be done to improve that confidence. We recognise the crucial importance of protecting the identity of those raising objections to parades. Imaginative improvements in transparency to make the nature of objections to parades clearer and more accessible to parade organisers need not compromise the security of objectors. By providing in its determinations fuller explanations about the conclusions it reaches on the impact of a parade on community relations, the Parades Commission will do much to help

foster cross-community confidence in its operation. Wherever possible, public order considerations should be included in these explanations. (Paragraph 94)

29. We believe that the Commission's involvement in mediation needs to be revitalised. A review of the process needs to be undertaken urgently, and the Commission's Authorised Officer cadre strengthened as a key part of a vigorous, proactive and, we trust, progressively successful mediation operation. The government must ensure that there are sufficient funds available to the Commission for this purpose. (Paragraph 95)

## Formal minutes

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**Wednesday 15 December 2004**

Members present:

Mr Michael Mates, in the Chair

Mr Roy Beggs

Mr Tony Clarke

Mr Iain Luke

Mr Stephen Pound

Reverend Martin Smyth

Mark Tami

Mr Bill Tynan

The Committee deliberated.

Draft Report (The Parades Commission and Public Processions (Northern Ireland) Act 1998), proposed by the Chairman, brought up and read.

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 95 read and agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No. 134 (Select Committees (reports)) be applied to the Report.—(*The Chairman.*)

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.—(*The Chairman.*)

[Adjourned till Wednesday 12 January at 3.30 pm.]

# Witnesses

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## Wednesday 14 January 2004

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Sir George Quigley

Ev 1

## Tuesday 10 February 2004

Professor Brice Dickson, Professor Tom Hadden, and Mr Ciarán Ó Maoláin,  
**Northern Ireland Human Rights Commission**

Ev 15

Mr Alistair Simpson and Mr David Hoey, **Apprentice Boys of Derry**, and Mr  
Iain McAfee and Mr Eddie Kelly, **Ulster Bands Association**

Ev 22

## Wednesday 3 March 2004

Dr Duncan Morrow, **Community Relations Council**, Mr Paul Mageean and  
Ms Maggie Beirne, **Committee on the Administration of Justice**, and Dr  
Dominic Bryan and Dr Michael Hamilton, **Democratic Dialogue**

Ev 30

## Wednesday 10 March 2004

Mr David Campbell and Mr David McNarry MLA, **Ulster Unionist Party**

Ev 40

Mr Alex Attwood MLA and Mr John Dallat MLA, **Social Democratic and  
Labour Party**

Ev 45

## Wednesday 31 March 2004

Sir Anthony Holland, Rev Roy Magee, Mr Peter Osborne, Sir John Pringle, Mr John  
Cousins, Mr Peter Quinn and Mr Andrew Elliot, **Parades Commission**

Ev 53

Mr Robert S Saulters, Mr William Ross and Mr Denis J Watson, **The Grand  
Orange Lodge of Ireland**

Ev 64

## Monday 26 April 2004

Assistant Chief Constable Duncan McCausland, Chief Superintendent Seamus  
Hamill and Inspector Amanda Cooke, **Police Service of Northern Ireland**

Ev 70

Mr Ian Pearson MP, Parliamentary Under-Secretary of State, Mr David  
Watkins, and Mr Mark McGuckin, **Northern Ireland Office**

Ev 73

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22 Grand Orange Lodge of Ireland	Ev 167
23 Ulster Unionist Party, Supplementary memorandum	Ev 172
24 Parades Commission, Further supplementary memorandum	Ev 174

## List of unprinted written evidence

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Additional papers have been received and have been reported to the House but to save printing costs they have not been printed. Copies have been placed in the House of Commons library where they may be inspected by members. Copies are also placed in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1. (Tel 020 7219 3074) Hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

Mr Austen Morgan

Mr Richard Monteith

Northern Ireland Committee, Irish Congress of Trade Unions

Ulster Bands Association – Submission to the Quigley Review

Portadown District Loyal Orange Lodge No.1

Labour Relations Agency

Greater Shankill Community Council

# Reports from the Northern Ireland Affairs Committee since 2001

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The following reports have been produced by the Committee since the start of the 2001 Parliament.

## Session 2004–05

First Report	Electoral Registration in Northern Ireland	HC 131
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## Session 2003–04

First Report	The Committee's work in 2003	HC 146
Second Report	The separation of paramilitary prisoners at HMP Maghaberry	HC 302
Third Report	Introduction of the Aggregates Levy in Northern Ireland: one year on	HC 395
Fourth Report	The Compensation Agency	HC 271
Fifth Report	'Hate Crime': The Draft Criminal Justice Northern Ireland Order 2004	HC 615
Sixth Report	Social Housing Provision in Northern Ireland	HC 493-I
First Special Report	Government Response to the Committee's Eighth Report on The Illegal Drugs Trade and Drug Culture in Northern Ireland, Session 2002–2003	HC 180
Second Special Report	Government Response to the Committee's First Report on the Work of the Committee in 2003	HC 510
Third Special Report	The Separation of Paramilitary Prisoners at HMP Maghaberry: Government's Response to the Committee's Second Report of Session 2003-04	HC 583
Fourth Special Report	Introduction of the Aggregates Levy in Northern Ireland: one year on The Government's Response	HC 666
Fifth Special Report	'Hate Crime' the Draft Criminal Justice Northern Ireland Order 2004 Government Response	HC 954
Sixth Special Report	The Compensation Agency Government Response	HC 955

## Session 2002–03

First Report	The Impact in Northern Ireland of Cross-Border Road Fuel Price Differentials: Three years on	HC 105-I
Second Report	Annual Report 2002	HC 271
Third Report	The Police (Northern Ireland) Bill	HC 233
Fourth Report	The Control of Firearms in Northern Ireland and the draft Firearms (Northern Ireland) Order 2002	HC 67-I
Fifth Report	Forensic Science Northern Ireland	HC 204
Sixth Report	The Illegal Drugs Trade and Drug Culture in Northern Ireland: Interim Report on Cannabis	HC 353-I
Seventh Report	Peace II	HC 653-I

Eighth Report	The Illegal Drugs Trade and Drug Culture in Northern Ireland	HC 1217-I
First Special Report	Government Response to the Committee's First Report: The Impact in Northern Ireland of Cross-Border Road Fuel Price Differentials: Three Years On	HC 412
Second Special Report	Government Response to the Committee's Third Report: The Police (Northern Ireland) Bill	HC 555
Third Special Report	Government Response to the Committee's Second Report: Annual Report 2002	HC 583
Fourth Special Report	Government Response to the Committee's Fourth Report on the Control of Firearms in Northern Ireland and the Proposed Draft Firearms (Northern Ireland) Order 2002, HC 67-I, Session 2002-03	HC 677
Fifth Special Report	Government Response to the Committee's Fifth Report on Forensic Science Northern Ireland	HC 722
Sixth Special Report	Government Response to the Committee's Sixth Report on the Illegal Drugs Trade and Drug Culture in Northern Ireland: Interim Report on Cannabis	HC 935
Seventh Special Report	Government Response to the Committee's Seventh Report on Peace II	HC 1077

#### Session 2001-02

First Report	Introduction of the Aggregates Levy in Northern Ireland	HC 333
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