

AGENDA ITEM NO 5

REPORT NO 3/22

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 13 JANUARY 2022

PUBLIC PROCESSION

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to consider a written notice received in respect of a proposed public procession under Section 62 of the Civic Government (Scotland) Act 1982.

1. RECOMMENDATION

It is recommended that the Committee consider the written notice received in respect of the proposed public procession under Section 62 of the Civic Government (Scotland) Act 1982 and determine whether: -

- (i) to make no order in respect of the notice;
- (ii) to make an order in respect of the notice imposing conditions on the holding of the procession to which the notice relates and state reasons for doing so; or
- (iii) to make an order in respect of the notice prohibiting the holding of the procession to which the notice relates and state reasons for doing so.

2. BACKGROUND

- 2.1 Section 62 of the Civic Government (Scotland) Act 1982 (“the 1982 Act”) requires a person proposing to hold a procession in public to give written notice of that proposal to the local authority in whose area the procession is to be held and to the Chief Constable within 28 days of the date before the date when the procession is to be held. “Procession in public” is defined as meaning a procession in a public place. “Public place” is defined as any road within the meaning of the Roads (Scotland) Act 1984 and any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- 2.2 Section 63 of the 1982 Act provides that a local authority may, after consulting the Chief Constable, in respect of a procession notice of which has been given under Section 62 of the 1982 Act, make an order: -
 - (i) prohibiting the holding of the procession; or
 - (ii) imposing conditions on the holding of it.
- 2.3 The considerations to which the local authority shall have regard to when deciding whether to prohibit the holding of a procession or impose conditions on it shall include:
 - (a) the likely effect of the holding of the procession in relation to:-
 - (i) public safety;
 - (ii) public order;
 - (iii) damage to property; and

- (iv) disruption of the life of the community;
- (b) the extent to which the containment of risks arising from the procession would (whether by itself or in combination with any other circumstances) place an excessive burden on the police;
- (c) where the person proposing to hold the procession has previously held one in the area of the authority or the persons likely to take part in the procession, or some of them, are the same persons as took part in one previously held in that area, or some of them:-
 - (i) whether the previous procession was held in breach of a prohibition under this section on its being held or of a condition so imposed on the holding of it;
 - (ii) whether any guidance or code of conduct issued by the authority as to the holding of the previous procession or as to the holding of processions generally was followed; and
 - (iii) the effect of the previous procession in relation to the matters mentioned in sub-paragraphs (i) to (iv) of paragraph (a) above and in paragraph (b) above.

Where a local authority makes an order prohibiting the holding of a procession or imposing conditions on the holding of it, it must deliver to the person who gave notice of it a copy of the order and a statement of reasons for it.

- 2.4 A person who has been given notice of an order prohibiting the holding of a procession or imposing conditions on the holding of it can appeal against such an order to the sheriff within 14 days from the date on which the copy of the order and statement of reasons were received by the appellant. On good cause being shown, the sheriff may hear an appeal under this section notwithstanding that it was not lodged within the 14 days referred to above. The sheriff may uphold an appeal under this section only if he considers that the local authority in arriving at their decision to make the order—
- (a) erred in law;
 - (b) based their decision on any incorrect material fact;
 - (c) exercised their discretion in an unreasonable manner; or

- 2.5 Section 65A of the 1982 Act provides that a local authority shall, in carrying out functions in relation to public processions, have regard to any guidance in that respect issued by the Scottish Ministers. The current Guidance issued by the Scottish Ministers can be found here: -

<https://www.webarchive.org.uk/wayback/archive/20150219164504/http://www.gov.scot/Publications/2006/12/06144351/2>

- 2.6 The Committee's attention is drawn to Paragraph 10 of the current Guidance which provides:-

Article 11 of the European Convention on Human Rights

10 It is important for your local authority to keep in mind that the 'right to freedom of peaceful assembly' is protected by the European Convention on Human Rights. In particular, Article 11 of the European Convention on Human Rights sets out this right. The right to 'free assembly' is not an absolute one, and can be restricted if needed to:

- protect national security or public safety;
- prevent disorder or crime;

- protect health or morals; or
- protect the rights and freedom of others.

The restriction to be placed on the right to free assembly must also be in proportion so it is compatible with Article 11 of the Convention.

3. REPORT

- 3.1 The Council has received a notice of public procession in accordance with Section 62 of the 1982 Act in connection with a proposed public procession to take place in Arbroath on 2 April 2022. The details of the proposed public procession are set out in **Appendix 1** to this report.
- 3.2 The Committee is required to consider the notice and determine whether: -
- (i) to make no order in respect of the notice,
 - (ii) to make an order in respect of the notice imposing conditions on the holding of the procession to which the notice relates and state reasons for doing so; or
 - (iii) to make an order in respect of the notice prohibiting the holding of the procession and state reasons for doing so.
- 3.3 The Committee will be aware that there have been various restrictions in place across Scotland since the beginning of the COVID-19 Pandemic. Currently, and from 26 December 2021, there is a capacity restriction of 500 in respect of outdoor live events. There is no certainty as to what restrictions, if any, will be in place on 2 April 2022. If the Committee is minded in principle to make no order prohibiting the procession, it is recommended that the Committee consider imposing a Condition with the effect of clarifying that if there are national restrictions in place for mass gatherings then such restrictions will override any decision by this Committee. Such a condition has been set out within **Appendix 2** for the Committee's consideration.
- 3.4 The organisers have completed a Risk Assessment in relation to the proposed procession and this is attached at **Appendix 3** to the Report (personal information redacted).

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APPENDIX 1 TO REPORT NO 3/22
CIVIC LICENSING COMMITTEE – 13 JANUARY 2022

(a) Organiser: Bob Fotheringham

Organisation: All Under One Banner

Date and Time of Procession: 2 April 2022, 12.30pm

Route: Inchcape Park, A92, East Grimsby St, Ladybridge St, High St, Hamilton Green, Abbey St, West Abbey St, Hill Terrace, Hill Rd, Kings Drive, Victoria Park

Estimated number of participants: 10,000

Vehicles: None

Details of Stewarding: Experienced Steward Team

CONDITION

The procession will only be allowed where permitted by, and in accordance with, legislation, regulations and directions of the UK and Scottish Governments relative to the COVID – 19 pandemic, whether relating to the protection of public health, restrictions of mass gatherings, requirement for social distancing or otherwise. For the avoidance of doubt, the legislation, regulations and directions of the UK and Scottish Governments relative to the COVID – 19 pandemic shall override any conditions contained in this document should they be in conflict.

APPENDIX 3 TO REPORT NO 3/22

CIVIC LICENSING COMMITTEE – 13 JANUARY 2022

ANGUS COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

PUBLIC PROCESSIONS

RISK ASSESSMENT FORM TO BE COMPLETED BY PROCESSION ORGANISERS SECTION ONE

Section One

Your Name Bob Fotheringham_____

Address

Tel No. _____

Mobile No.

E-mail Address

Date of Procession 2 April 202

Time 12.30pm

Proposed Route:

Inchcape Park, A92, East Grimsby street, Ladybridge Street, High Street, Hamilton Green, Abbey Street, West Abbey Street, Hill Terrace, Hill Road, Kings Drive, Victoria Park.

General Information for the organiser:

We are asking you to fill in this risk assessment form to help us to understand what dangers and risks might be associated with holding your event. This form will take you through the most common areas of risk which we and the Police might want to raise with you. We and the Police may carry out our own assessment of risk and may

want to discuss our assessment with you before any meeting is held or at the first meeting itself.

When a risk assessment may not be needed:

We will tell you if you need to fill in this risk assessment form. You may not need to carry out a risk assessment, for example, if we consider your procession is routine or it has already been decided that the procession will carry little to no risk.

Purpose of filling in the risk assessment form:

A risk assessment of the procession will help to –

Identify any dangers associated with holding it; evaluate the level of any known risks; decide who is at risk and in what way and how the risk to them could be reduced or removed; and decide, where other types of risk have been identified, whether it would be possible to introduce appropriate measures to allow the procession to go ahead.

Who should be filling this form in:

It would be preferable if you were a suitably qualified person (e.g. someone who is trained in health and safety regulations). If that is not possible, someone else in the organisation with a good knowledge of the area where the march is to be held should fill it in. We will then check the form and compare it to the assessment of risk which we and the Police may be carrying out.

How to fill in the form:

You should work your way through the form section by section. If there are parts to sections which you cannot fill in, you should contact the person named at the end of the form. If your overall assessment shows that there is a high risk associated with holding the procession, you should get in touch as soon as possible to discuss if we can find solutions to reduce or remove the risk. Once we have considered the notification, the risk assessment and all other evidence, we may contact you to hold a meeting.

Who you should send the form to:

You should send your risk assessment form, with your notification form, to the person named at the end of this form at least 28 days before you plan to hold a procession. If you cannot send your risk assessment with the notification, you should do so as soon as possible thereafter.

Next steps:

We will assess the risks associated with holding your procession as early as we can. You should remember to keep a copy of this form for your records and bring it with you for any meeting which we may hold. This is because we and the Police may want to raise issues with you about how your assessment compares to ours. In case there are problems, we may need further meetings.

Section Two Main risk assessment

The table in this section sets out the main areas of the risk assessment. You should provide as many supporting comments as you can.

Question You must provide supporting comments in the boxes below. (Attach other pages if required).

Is the date of your procession particularly significant to the organisation?	The date is as close as possible to the anniversary of the signing of the Declaration of Arbroath. 2021 is intended to be the <i>de facto</i> 700 th anniversary, given that celebrations planned in 2020 were cancelled due to coronavirus restrictions.
Has your organisation marched along the same route before?	No
Are there enough trained stewards to control the number of marchers expected?	Yes. Stewards are trained and many are experienced, having stewarded similar processions before.
Have there been any difficulties or tensions in the recent past with holding this procession?	No. This procession has not been held before. We do not envisage any issues.
Please assess the level of risk there may be to public safety. (Please also say whether the risk is low, or high).	The risk is assessed as Low. This is a result of the nature of those participating, with large numbers of families and older people, the experience of the organisers and stewards and the careful preparation with local groups, Police Scotland and the local authority
Please assess any risk to public order. Please also say whether the risk is low, or high).	Risk to public order is assessed as Low. These processions usually attract a small counter-demonstration. We have specialist stewards who have experience of stewarding the counter-

	demonstration and have agreed protocols in place with Police Scotland. There has been no risk to public order at previous processions.
Please assess the risk of damage to property. (Please also say whether the risk is low, or high).	Risk of damage to property is assessed as Low. There has been no damage to property at previous processions and we do not anticipate that changing. This is a result of the nature of those participating, with large numbers of families and older people.
Please assess the risk of disruption to local business, the community or shoppers and traffic from holding the procession. Please also say whether the risk is low, or high).	Our experience is that these processions increase the amount of local business on the day of the procession. Traffic will necessarily be disrupted for a short period while the procession passes however such disruption will be temporary and carefully managed with Police Scotland and the local authority.
Taking account of all the information in this table, what is your opinion of the overall risk of holding the procession? Is it low, or high?	On the basis of the assessments given above, we assess the risk as low.

Section Three

This section details other information which you should consider as part of a general assessment of the procession. You should assess the following –

At the end of the march, what are your arrangements for getting marchers to go home?	The intention is that at the end of the procession there will be a rally with speakers and performers. Once the rally is complete, those attending will be invited to leave. In our experience that is what happens.
Are you organising any other social events at the end of the march? (Please give details of what these are). And will you need a Police presence?	As indicated above we will organise a rally with speakers and performers at the end of the procession. Commonly there is a small police presence at the rally as would be expected at any public gathering.

<p>Is the proposed route shown on your notification as a route that your organisation commonly uses?</p>	<p>No. We have not held a procession at Arbroath before.</p>
<p>Have you taken out insurance to help cover for any risks arising from the procession?</p>	<p>No. It is not possible to purchase PI insurance for a procession. It may be possible to obtain PI insurance for the rally however that depends on the precise arrangement for the rally, which have not yet been determined.</p>
<p>What is your assessment of the risks to marchers if the route passes through communities which may be against the march?</p>	<p>We are not aware of any communities which are against the procession. Very nearly 50% of the voters of Angus voted SNP at the last General Election. Nearly 50% of the voters of Angus South and Angus North and Mearns voted SNP at the last Scottish Election.</p>
<p>Do you have enough security in place for any coaches and other vehicles?</p>	<p>Yes. Secure arrangements for coaches will be discussed and agreed in advance with the local authority and Police Scotland.</p>
<p>Have you assessed what other priorities there may be in the area on the day of the march?</p>	<p>Yes.</p>
<p>Have you considered the effect on the community as a whole if the march went ahead?</p>	<p>Yes. This procession is expected to have a positive effect on the community as a whole.</p>
<p>Could you combine this procession with other similar events in the area? If not, why not?</p>	<p>There are no other similar processions planned for the area.</p>

Section Four

Final assessment

If the local authority is holding a meeting, I would like to raise the following points about this risk assessment.

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Please provide any other supporting comments in the box below.

Section Five

Declaration

I have assessed the risks associated with holding the above procession. I will come to any meeting which may be needed.

Signature of the person carrying out the risk assessment B Fotheringham
Name in BLOCK CAPITALS BOB FOTHERINGHAM

Relevant qualifications of the person carrying out the risk assessment:
Procession Organiser

Signature of Organiser: B Fotheringham

(You only need to fill in this part of the form if you are not the person who carried out the risk assessment).

Name in BLOCK CAPITALS _____

Date: _____

Section Six

Please return the completed risk assessment form with the notification form to:

Licensing Section, Angus Council, Orchardbank Business Park, Forfar, DD8 1AN or to
lawlicensing@angus.gov.uk

We will ensure that a copy of your risk assessment is sent to the Police.