

# **Public Assemblies, Parades and Protests in Northern Ireland**

Briefing Paper on the consultation published by  
OFMDFM on 20 April 2010



## Introduction

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### The Proposals of the OFMDFM Working Group on Parades

The current proposals for establishing a new approach to regulating and dealing with disputes associated with public assemblies were developed by OFMDFM as part of the Hillsborough Agreement of 5 February 2010. The proposals draw on the ideas set out in the Interim Consultative Report produced by the Strategic Review of Parading, published in April 2008 (see <http://www.srpb.org.uk/interim-consultative-report.cfm> for the full report), and may be seen as part of the wider process of finalising the devolution of key responsibilities from the NIO to the Assembly.

The draft Bill sets out proposals to replace the Parades Commission with a new decision making body. One important change is that the draft Bill proposes to extend the law to other types of public assembly, not just parades and counter-protests to parades. The Act defines a public assembly as:

- A public procession
- A public meeting
- A protest meeting

It further defines a public meeting as a meeting of 50 or more persons held in a public place and which the public, or a section of the public, are invited to attend (a public place means a roadway or footway or any other place, apart from a building, to which the public or a section of the public has access. This represents a significant extension of the type of public assembly that must be notified to the authorities.

The consultation runs until 14 July 2010.

The proposals were produced by a working group established by the First Minister and Deputy First Minister that were to reflect the key principles outlined in the Agreement at Hillsborough Castle.

1. Local people providing local solutions
2. Respect for the rights of those who parade and those who live in areas where people parade, including the right to be free from sectarian harassment
3. Recognition that at times there are competing rights
4. Transparency, openness and fairness
5. Independent decision making

The proposals, which are set out in a consultation paper published on 20 April 2010, include the contents of draft legislation entitled the Public Assemblies, Parades and Protests Bill (Northern Ireland), plus an explanatory guide to each of the 49 clauses of

the draft bill. Finally the consultation document includes a draft Code of Conduct for participants in public assemblies from the Report of the Working Group and the draft legislation (the statutory code of conduct that will underpin the legislation will be published later). See <http://www.nidirect.gov.uk/public-assemblies-parades-and-protests-in-northern-ireland-2.pdf> for a full copy of the draft legislation and explanatory notes.

The main aims of the new proposals are:

- To replace the Parades Commission with relevant bodies that are accountable to the Local Assembly
- To set out a new framework for administering public assemblies
- To establish a new range of procedures for responding to disputes associated with an assembly
- And to separate the different functions of promoting discussion, facilitating mediation and making adjudication into distinct areas of responsibility

## Proposed New Structures

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### OFMDFM

- Will appoint officials from within their office to serve as Office of Public Assemblies, Parades and Protests
- Will issue guidance to OPAPP about exercise of its functions & will provide OPAPP with premises and other facilities
- Must publish guidance issued to OPAPP
- Will appoint the Public Assemblies, Parades & Protests Appointments Panel - four members representative of the community of NI

### Office of Public Assemblies, Parades & Protests (OPAPP)

- Will take on administrative/secretariat function, staffed by officials appointed by OFMDFM
- Will **NOT** adjudicate on parades
- OPAPP must have regard to guidance issued by OFMDFM

### Public Assemblies, Parades & Protests Body (PAPPB)

- Adjudicates on all public assemblies that are subject of notified concerns or objections and that have not been resolved through local dialogue or mediation

- Will be made up of 11 members all of equal standing and with no chair
- Must include three members with relevant legal expertise
- Aim to be representative of the community in NI to maximise community confidence

### **Public Assemblies, Parades & Protests Appointments Panel**

- Will make appointments to the PAPPB
- Four members will be appointed by OFMDFM

### **Department of Justice**

The Justice Minister (with the approval of FM & DFM) can make a prohibition order if it is deemed necessary in the public interest. Minister must pay regard to the likelihood of serious public disorder or serious damage to property, the likelihood of serious disruption to community life and the advice of the PSNI. Prohibition orders are to be measures of last resort and these decisions are reviewable by the Courts.

## **Notification Procedure**

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### **Notice of Public Processions and meetings**

An organiser of a public procession or public meeting must give notice to OPAPP at least 37 days in advance of the proposed date of the procession/meeting. The Notice must specify, date, start and end times, identify categories of person expected to attend. OPAPP must publish a notice received on the date of receipt.

After notice of a receipt, OPAPP must send copies to interested persons. Interested persons” means—

- (a) PAPPB
- (b) the Police Service of Northern Ireland
- (c) the fire and rescue and ambulance services
- (d) the local Member of Parliament
- (e) the local Members of the Northern Ireland Assembly
- (f) the local District Council
- (g) persons who notify OPAPP that they want to receive copies of notices

## **Notice of Concerns or Objections**

Any person may give a notice of concerns or objections to a public assembly that has been notified to OPAPP.

Notice of concerns/objections must be given within seven days of the publication of the notice of procession/meeting

Notice must state why the person giving it has concerns or objections which relate to human rights or compliance with the code of conduct.

OPAPP must publish a notice received on the date of receipt. After receipt of a notice OPAPP must send copies to the organiser of the public assembly and the interested persons.

## **Notice of Protest Meetings**

A person who proposes to organise a protest meeting in respect to a public assembly must give notice to OPAPP at least 22 days in advance of the proposed date of the protest meeting.

A notice may be given only if the protestor has given a notice of concerns or objections in respect of the public assembly.

A notice must specify the date of the proposed protest meeting, specify start and end times, identify categories of person expected to attend and include any other information required by OPAPP.

## **Adjudication**

Where there has been no agreement following dialogue or mediation between the organiser of a public parade or procession and objectors, PAPPB must make and publish its decision on a referral for adjudication at least seven days before the proposed date of the public assembly.

PAPPB must publish its reasons together with its decisions. A decision may impose requirements on organisers, participants including 3<sup>rd</sup> party participants) and non-participants. Requirements may relate to: management and stewarding, behaviour of participants, behaviour of non-participants, commencement times, dispersal times, position location and route, size, duration, participation or attendance of persons who have breached the code of conduct and any other matter PAPPB thinks appropriate.

PAPPB must comply with a request from an organiser of a proposed public assembly to review its first decision on the basis of a significant change of facts but no decision of

PAPPB may be reviewed during the period of 4 working days ending with the date of the proposed public assembly.

## **Dialogue and Mediation**

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OPAPP must take any reasonable steps requested by the organiser and objector to aid discussion between them of the issues in dispute.

PAPPB may take into account a person's participation or non-participation in any meeting convened but participation is not to be a main or key determining factor, no decision of PAPPB may be made on the grounds of non-participation alone.

If a meeting agrees that the public assembly is to be monitored; the organiser must inform OPAPP, OPAPP must inform PAPPB and PAPPB must appoint monitors.

If a meeting resolves any issues in dispute; the organiser and objector must inform OPAPP, OPAPP must publish a report of the outcome of the meeting and OPAPP must send copies of the report to the interested persons.

### **Mediation**

OPAPP must establish and maintain a list of mediators for the purposes of this Act.

If after 7 days from the date of publication of the notice of concerns or objections has expired without the organiser and objector having notified OPAPP that all issues in dispute have been resolved through dialogue OPAPP must make arrangements for mediation. An exception to this is if the PAPPB decides that the notice of concerns or objections is to be dismissed as not raising any issue relating to human rights or compliance with the code of conduct.

## **Prohibition Orders**

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A prohibition order is an order of the Department of Justice prohibiting the holding of a specified public assembly or any public assembly or any public assembly of a specified class or description, in a specified area during a specified period not exceeding 28 days.

A prohibition order may provide exceptions, may be amended or revoked by a further prohibition order.

A prohibition order has the effect of revoking any decision of PAPPB in respect of a public assembly prohibited by the order.

Department of Justice may make a prohibition order only if the Department is satisfied that it is necessary in the public interest and the FM & DFM acting jointly consent to it.

Where practicable the Department must consult the PAPPB and the Chief Constable before making a prohibition order.

## **Late Notification**

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If a person gives notice in respect of a public assembly (either notice of an assembly, notice of concerns/objections or notice of a protest meeting) OPAPP must refer the notice to PAPPB.

If PAPPB is satisfied that the delay in giving the notice was unavoidable or reasonable in the light of unforeseen circumstances, it may allow the notice to have effect as if given on time.

## **Emergency Procedure**

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This clause makes provision for notification of a public assembly within three days of the date of the assembly. This procedure is only intended to be used in extreme emergency situations e.g. if a community decided to hold an assembly to mark some unforeseen event. Because of the urgency, notification should be submitted directly to the PSNI. It will be the responsibility of the Chief Constable to inform PAPPB immediately.