

WEST DUNBARTONSHIRE COUNCIL**Report by Chief Officer - Regulatory & Regeneration and
Chief Education Officer****Council: 26 August 2021**

**Subject: Law and Practice in Relation to Marches and on Education to
Address Sectarianism and Racism****1. Purpose**

- 1.1** The purpose of this report is to provide Members with details of what education is offered within West Dunbartonshire schools on tackling racist and sectarian behaviour and to advise Members of the policies and procedures which are in place for staff to protect staff and citizens from sectarian behaviour. The report also outlines the law and practice on marches with particular regard to their routing.

2. Recommendations

- 2.1** Members are asked to note the terms of the report.

3. Background

- 3.1** At a meeting of Council on 23 June 2021, a motion was agreed requesting a report from Officers on what education is offered within West Dunbartonshire schools on tackling racist and sectarian behaviour, and what policies and procedures are in place for staff to protect them and citizens from sectarian behaviour. A report around the issues surrounding all marches was also requested, with particular regard to their routing.

4. Main Issues

- 4.1** West Dunbartonshire schools embrace positive social values of equality and justice demonstrated in the vision and values statements published by all schools and early learning centres. The social values promoted in West Dunbartonshire Schools are in line with the attributes and capabilities of Curriculum for Excellence the national curriculum for Scottish Schools.
- 4.2** The Curriculum for Excellence capacities aspire for young people in Scotland to become successful learners, confident individuals, responsible citizens and effective contributors. The capacities being developed through the curriculum include: valuing and respecting others; being committed to participate responsibly in political, economic, social and cultural life; having an understanding of different beliefs and cultures; developing informed ethical views of complex issues.

4.3 Anti Racist and Anti Sectarian Education

West Dunbartonshire's schools provide learning content on religious and racial tolerance in line with the National Curriculum Experiences and Outcomes:

- Religious Education outcomes for both denominational and non-denominational schools make reference to the Scottish context . Children and young people learn about Christian and Catholic Christianity and other world religions focussing on beliefs, values and issues, practices and traditions; and
- In Social Subjects, progressive learning outcomes are defined to support young people to learn about and develop a respect for their society including learning about the heritage and identity of others; people who have settled in Scotland in the past and present and their impact on the culture and life of Scotland; issues of conflict in society including cause and consequences of conflict.

4.4 Schools develop their own anti racist and anti sectarian education projects with learning generally structured around the key focus areas of:

- defining racism and sectarianism;
- racism and sectarianism in our local context;
- the impact of sectarianism and racism on individuals and society; and
- actions to take to deal with racism and sectarianism.

A wide range of resources are available for schools to use to produce learning content and experiences. In 2020 all headteachers attended information sessions provided by the organisation Showing the Racism the Red Card as part of the Service awareness raising programme of key issues and resources to support learning. Other resources used in West Dunbartonshire's schools include Divided City a novel study which explores the issues of sectarianism in the context of Glasgow Football Clubs. In 2017/18 the Service worked with a Glasgow Theatre Company to produce theatre performances of the play 'Divided City'. This was an opportunity for children from denominational and non denominational schools to work together on joint performances of the play.

4.5 In 2019/20 the Mentors in Violence Prevention programme was introduced into West Dunbartonshire mainstream secondary schools. This is a national programme which educates young people about mentoring and supporting their peers covering a range of social, emotional and behavioural issues. Young people explore and learn ways to respond appropriately in such circumstances. Tackling racial/sectarian abuse are issues covered in the programme: young people learn about the impact of this on victims and the theory of the Bystander approach where saying nothing and standing back are not the answer to witnessing racial/sectarian abuse. The programme will re-start in the next academic session.

4.6 Promoting Positive Behaviours Policy

In 2018 Educational Services produced updated policy guidance to schools on equality and social justice. The policy provides guidance to support our school communities to work and learn together respectfully and inclusively. Robust and clear systems are established to ensure young people can receive support when needed if they have been a victim of racist or sectarian behaviour with guidance included for staff on how to deal appropriately with the victim and offender. Incidents of racism or bullying behaviour are monitored by central officers who provide support to establishments to respond appropriately to any reported issues.

4.7 Marches and Parades

The Council's powers and duties in relation to marches and parades are set out in the Civic Government (Scotland) Act 1982. A report : "Review of Marches and Parades in Scotland" by Sir John Orr was published in December 2004 and as a consequence the existing legislation was subsequently amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006. The Scottish Government issued Guidance for Scottish Local Authorities on marches and parades in Scotland on the 12th December 2006. There has also been a subsequent ten year review and report by Dr Michael Rosie, Edinburgh University into marches and parades which has been subject of a report to the Council's Licensing Committee. In addition, the Council's licensing section has participated in engagement with Dr Rosie with regard to the practice and experience of marches and parades within West Dunbartonshire.

4.8 The legal starting point is the European Convention on Human Rights which provides in Article 11 that everyone has the right to freedom of peaceful assembly. This includes a right to march or parade. This can only be restricted if it is necessary to:

- protect national security or public safety;
- prevent disorder or crime;
- protect health or morals; and
- protect the rights and freedoms of others.

4.9 Any interference with the right of peaceful assembly must be proportionate, which means that the nature of any restrictions must be in proportion to the issues which the authority is trying to tackle. The 1982 and 2006 Acts provide that organisers must notify marches and parades to the Council. The fact that this is a notification procedure rather than a licence application reflects the fact that the right of peaceful assembly is a fundamental right in a democratic society. The 2006 Act provides that in considering whether to prohibit the holding of a procession or impose conditions on it, the Council shall have regard to a likely effect of the holding of the procession in relation to – (i) public safety; (ii) public order; (iii) damage to property and (iv) disruption to the life of the community.

- 4.10** Attached at Appendix 1 is a list of marches and parades within West Dunbartonshire during 2019. No marches and parades were refused or restricted by the Licensing Committee.
- 4.11** West Dunbartonshire Council has a Code of Conduct for Public Processions as detailed at Appendix 2 that organisers notifying marches and parades must adhere to the terms of. This includes the routing of marches. Dr Michael Rosie has highlighted in his review report aspects of good practice within the West Dunbartonshire Council's Code of Conduct for Public Processions with regard to website information provided by the Council to organisations to notify proposed marches and parades, and their routes.
- 4.12** The agreed procedure is that the licensing section after receiving a notification of a march and parade (which is normally 28 days in advance unless there are exceptional circumstances for a shorter period of notice), is to then hold a pre meeting with the licensing section, the organisers and Police Scotland to discuss the proposed march and parade, including the proposed route. Organisers are required by the Code of Conduct at Point 11, to adhere to the following:

"The organiser shall ensure that, wherever possible, proposed routes follow main roads and do not go through residential housing developments."

- 4.13** Accordingly, there have been instances where notifications of proposed routes which have been modified/restricted by the Licensing Committee where the organiser has initially sought to go down a residential route. In the event that a route is sought that is determined to be residential then most organisers will modify their application which, will negate the need to have the notification of the march/parade heard at Committee. It is the case that most marches and parades proceed through main roads and established routes, and at Point 15 of the Code of Conduct there is a stipulation that:

"Any band or bands taking part in a parade/procession shall cease playing when approaching and passing any place of worship or any other location where a recognised religious, cultural or legal ceremony is taking place."

In addition, at point 9:

"The organiser shall ensure that the behaviour of participants is not such as can be reasonably perceived to be aggressive, threatening, abusive, homophobic, sectarian or racist. The organiser shall exercise reasonable diligence to ensure that any follower of the procession also refrains from such behaviour, for example by bringing such matters to the attention of the Police as soon as possible;"

And at point 10:

"The organiser shall ensure that, in the event that persons attached to or following the procession engage in behaviour which is aggressive, threatening, abusive, homophobic, sectarian or racist, and the police are of

the view that the playing of music is exacerbating the situation, the organiser/band major should immediately instruct a band to cease playing when asked to do so by Police Scotland;”

- 4.14** Where there are reported incidents of breaches of the Code of Conduct by the organiser, and issues reported to the Licensing Committee, then this can be taken into account when subsequent notifications are intimated to the Council by the same organisation. Police Scotland can object to the terms of the march or parade where there are identifiable public safety and public order concerns. A Licensing Committee will consider the terms of any objection/representation and in the event that a notification of a parade and march is then subsequently restricted or refused by the Committee, the organiser is able to submit an appeal to the Sheriff Court.
- 4.15** The right of peaceful assembly is a fundamental right of a democratic society. Where the organiser's views are not illegal they have a legal right to express them. Marches and parades can only be prohibited on the specific grounds detailed in Section 63(8) of the Civic Government (Scotland) Act 1982 specified above. Objections to marches and parades due to the nature of the organiser's views and the perceived impact of these on the community, are not a ground to prohibit a march and parade. The actions of the Council also need to be proportionate to the issues that it is trying to tackle. In other words, the Council should firstly try to resolve any problems by way of conditions prior to looking to prohibit the march. In 2009 the Council lost a legal appeal where a march was refused following representations including a Police representation to the march, and the prohibition on the march was not seen as proportionate by the Sheriff on appeal.
- 4.16** If a march were to be prohibited then there would need to be concrete evidence on which to base a prohibition based on the four grounds since it is likely that this will be tested by appeal in the Sheriff Court. In the 2009 appeal referred to above, the Sheriff stated that the marchers' human rights to freedom of expression and freedom of peaceful assembly may only be withheld or restricted on grounds that are themselves very narrow and restricted. It is for the Council to establish that there is a necessity for intervention and that any intervention will be proportionate to meet that need. Necessary implies the existence of a pressing social need and proportionality has to be assessed by the standards of a democratic society characterised by pluralism, tolerance and broadmindedness. It will therefore always be very difficult to justify imposing an outright prohibition on a march.

5. People Implications

- 5.1** There are no people implications.

6. Financial and Procurement Implications

- 6.1** There are no financial or procurement implications arising from this report.

7. Risk Analysis

- 7.1** There is no increased risk to the Council associated with the contents of this report.

8. Equalities Impact Assessment (EIA)

- 8.1** No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9. Consultation

- 9.1** The Chief Officer - Resources has been consulted in connection with the terms of this report

10. Strategic Assessment

- 10.1** In terms of the Council's Strategic Priorities the report meets the aim of meaningful community engagement with active empowered and informed citizens who feel safe and engaged.

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Date: 2nd August 2021.

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Appendices: Appendix 1 - List of marches and parades within West
Dunbartonshire - 2019.

Appendix 2 - Civic Government (SCOTLAND) ACT 1982
Police, Public Order and Criminal Justice (SCOTLAND)
ACT 2006 - Code of Conduct - Public Procession.

Background Papers: Report by Strategic Lead – Regulatory-Licensing
Committee - Committee – 7 December 2016- Update on
Independent Report on Marches, Parades and Static
Demonstrations in Scotland.

Review of Marches and Parades in Scotland: Guidance for Scottish Local Authorities, 12 December 2016:

<https://www.gov.scot/publications/review-marches-parades-scotland-guidance-scottish-local-authorities/pages/>

Wards Affected:

All

