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1 Introduction and Legal Information

1.1 Introduction

Please note that the use of the term “processions” in this guidance include all parades, marches, cavalcades and demonstrations etc whether organised by Art, Civic, Cultural, Political, Religious, Sporting, Campaigning, Community or other groups.

While the right to have a procession is protected by the Human Rights Act 1998, it is not an absolute right, and restrictions can be imposed. There may be occasions when participants or followers display an overtly controversial, political or religious affiliation which will cause offence to others and even provoke public disorder. Such behaviour is not to be tolerated in what is a friendly, welcoming and inclusive area. Accordingly this guidance has been produced to help the Council, organisers and participants ensure that all processions take place in as disciplined a manner as possible and in accordance with all reasonable standards.

1.2 Purpose of this document

The document aims to provide information on:

- the legal position in relation to organising a procession;
- the notification process including how objections and appeals are dealt with; planning a procession;
- a Code of Practice for Organisers, Stewards and Participants.

1.3 Legal Position

The Council’s Policy operates within the context of Section 62 of the Civic Government (Scotland) Act 1982 as amended by the Public Order Act 1986. This means that, as a Council, we do not technically “approve” processions. In appropriate circumstances, however, we can prohibit, change the route, or time, or make conditions, as to how a procession takes place.

The Council must act within the law, apply the law precisely and base its decision on correct facts. The Council have to exercise discretion in a reasonable manner, act within its powers and be able to justify any conditions or prohibition in relation to the specific circumstances of a procession.

A major review of Marches and Parades in Scotland by Sir John Orr was published in January 2005 and led to amendments to the Civic Government (Scotland) Act 1982, as contained in the Police, Public Order and Criminal Justice (Scotland) Act 2006. The amendments are effective from 1st April 2007.



The Council's policy recognises the need to achieve a balance between the legitimate desire of people to demonstrate and protest, to celebrate their history and cultural traditions, or to raise awareness of issues which they regard as important, and the legitimate right of non participants to go about their daily lives with minimal disruption and inconvenience.

1.4 Policy Aims and Principles

It is critical to its success that the Council works with the Police and procession organisers to ensure that their policy is:-

- Applied equally to all organisations that might wish to hold events in the area.
- Implemented fairly.
- Adhered to consistently.
- Monitored by its officers.


The Council's policy is intended to be a general one which applies to those who organise processions and those who wish to participate.

The policy is based on three key principles:-

- The right to peaceful assembly and freedom of expression as outlined in the European Convention on Human Rights are Fundamental Rights which the Council believes should be open to all.
- These rights are not absolute, however, and must be balanced by the responsibilities to ensure that the rights of others are not infringed.
- The exercise of those rights bring specific responsibilities both to those organising and participating in processions especially in relation to those residents whose lives may be disrupted by a particular procession.

The policy sets out issues which the Council considers important when dealing with the notification of a procession. This represents a general approach, each procession will be assessed on its own merits and according to circumstances.

Responsibility for a procession and its participants lies principally with the procession organiser who must ensure a pre-planned, well organised and peaceful event, that has as little negative impact as possible on local residents, businesses and communities. The Police too have a critical role in upholding the law in and around processions and demonstrations.

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2 Notification Process

2.1 How we deal with notifications

When we receive your notification, we will seek to assess whether it's likely to be contentious or otherwise and designate it high or low risk.

All matters will be notified to the following consultees:

- Police
- Roads
- Fire
- Parks authority where the procession goes through a national park – in Moray that is part of the Cairngorms National park
- BEAR Scotland where the procession proceeds on part of a trunk road

In respect of higher risk matters, we will also notify community councils and/or relevant organisations on our database of any proposed procession. Your proposed procession will also be advertised on our website. In this case any person or body will be able to submit a letter to the Council raising any concerns or observations they wish to make relative to the proposed procession.


If there are no objections to the notification, the Council will send you a letter confirming details of the procession, including the date, route and time, together with any other reasonable conditions which you will be obliged to follow.

Depending on the information you supply in the notification form and any responses to the notice, you may be asked to attend a meeting with Council officers and the Police to discuss the proposed procession.

Current legislation presumes the right to hold a procession and, as a Council, we must justify any conditions or prohibitions in relation to the specific circumstances of a procession. The nature of any restriction must be in proportion to the aim which it is trying to tackle.

2.2 How we deal with objections

Where objections have been received from the Police or concerns raised by local residents or businesses, we will make every effort to communicate and negotiate with you, as procession organiser, to resolve concerns to the mutual satisfaction of all involved. This may result in you having to submit a revised and mutually agreed notification.

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If, however, it is impossible to resolve difficulties through negotiation, a formal meeting of the Licensing Committee will be arranged to consider the notification and the issues raised.

At the Committee meeting those proposing the procession and those objecting to it will be invited to present their cases and Committee Members will have the opportunity to question them.

After hearing all parties, the Committee will announce its decision which will be confirmed in writing. The Council can either prohibit the holding of a procession or impose conditions on it.

The use of restrictions may include:-

- Making alterations to the date, time, duration or route of the procession.
- Asking for stewarding arrangements to be strengthened.
- Seeking to prevent a procession to ensure that anti-social behaviour is not promoted.
- Prohibiting its entry to any public place specified in the Order.
- If the Council decides to prohibit a procession under Section 63(1) of the Civic Government (Scotland) Act 1982, a letter will be sent to you as organiser as early as possible after the Hearing, containing a Statement of Reasons as to why the procession has been prohibited.

2.3 What we take into account when considering your notification

We must consider the effect of holding the procession on the following factors before deciding whether to restrict a procession.

- Public safety
- Public order
- Damage to property
- Disruption to the life of the community

When reaching a decision on preventing a procession or placing conditions on it, we must also assess whether the procession (either alone or with other events) would place too much of a burden on the police. For example, it is important that enough police officers will be available to patrol the march and keep order. This will be a particularly important issue to consider if several marches and feeder parades are planned to take place.

We will examine all the factors before deciding whether it would be appropriate to prevent a procession or place conditions on it (such as re-routing the event).



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In considering the notification of a procession the Council will take into account:-

In terms of the volume of processions we will consider the number of processions that have taken place within the area affected by the proposed procession within the last year and in light of this the potential for the procession to cause excessive disruption to residents and businesses in the area and to motorists, pedestrians and public transport users along its proposed route.

In terms of procession routes, we will consider –

- The impact of the route on residents, businesses and transport users and seek to balance the desire of the procession organisers for a particular route with the impact on other people affected by that route. The presumption is that processions will avoid main residential estates and should, where practical, keep to the main arterial routes.
- Organiser's proposals for stewarding and other arrangements. If we need to alter proposed routes to limit disruption in local areas, we will also try to maximise opportunities for the Police and Roads' staff to ensure that traffic and pedestrian movement is disrupted as little as possible.


In terms of likely threat to public disorder we will consider:-

- Police advice regarding public safety or potential public disorder in relation to any proposed procession, as well as Police reports on the extent to which previous processions have involved anti-social behaviour on the part of participants or followers.
- Any representations from residents, businesses and others whose activities are likely to be affected by the proposed procession regarding the expectation of disruption, public disorder and anti-social behaviour.
- Any assessments or representations from the Council's Roads' staff.

Once we have assessed these reports we will decide whether to:-

- Make alterations to the route.
- Impose conditions on the procession.
- Ask for stewarding arrangements to be strengthened.
- Seek to prevent a procession to ensure that anti-social behaviour is not promoted.

We will look at the impact of a procession in its totality.

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The likelihood of any restriction will be greater where the procession or its followers have previously:-

- Caused public disorder or damage to property.
- Been involved in anti-social behaviour.
- Failed to comply with Police instructions on the day.

2.4 Appeals

You can appeal against an Order made under Section 63(1) of the Act. This appeal should be made by way of a Court Action, known as Summary Application, and lodged with the Sheriff Clerk within 14 days of the date you receive the refusal letter and Statement of Reasons.

An appeal may be upheld by the Sheriff if he/she considers that the Council in making its decision had:-

- Based its decision on any incorrect material fact.
- Erred in Law.
- Exercised its discretion in an unreasonable manner.
- Otherwise acted beyond its powers.

The Sheriff on considering an appeal under this Section may hear evidence by or on behalf of any party to the appeal and will also take into account the actions of the Council and give it the opportunity to be heard.

If the Sheriff upholds an appeal he/she may either:-

- Remit the case with reasons for his/her decision to the Council for reconsideration.
- Squash, vary or substitute the Order under appeal, if there is insufficient time for the case to be remitted to the Council.
- Dismiss the appeal.

Decisions of the Sheriff may be appealed to the Court of Session on a point of law, within a period of 28 days.

2.5 Cancellations

If you have to cancel your procession or demonstration, it is your responsibility, as organiser, to advise the Legal & Committee Services Department as soon as possible. Where practical you should confirm the cancellation in writing.



3 Guidance for Organisers

3.1 Overview

We will require the organisers of a procession to agree to certain conditions when notifying us of the intention to hold a procession. In practice there will be a degree of flexibility in how far the guidelines operate to reflect local circumstances.

3.2 Notification

Provide 28 days notice to the Council and Police Scotland of the intention to hold a procession, except in exceptional circumstances, where this period of notice would be impractical.

Give notification as early as possible in those cases where a series of similar processions is proposed.

Co-operate with the Council and Police Scotland from the time of submission of the notification of a procession until the procession disperses.

Ensure that in the event of the procession or demonstration being cancelled, the Council and the Police are informed of this promptly and the cancellation confirmed in writing to the Council within 48 hours, unless this is impractical, due to exceptional circumstances.

Depending on the circumstances of the procession you may also be asked to submit a Risk Assessment Form. Annex 1 contains more information on Risk Assessment.

3.3 Planning a Procession

Scottish Government recommends that 7 areas are considered when planning a procession. Information on these topics is contained in the main body of the Event Guide. The areas which should be considered are:

Managing Crowds	para 3.3.5
Insurance	para 1.8
Managing Vehicles	para 1.7, 3.3.6
Health and Safety	para 1.5
Managing Waste and Hygiene	para 1.5.5
Training Stewards	para 3.3.5
Planning for Unexpected Events	Annex 1 of this document




3.4 Checklist for Procession Organisers

This list is not exhaustive and related activities may also be added to the checklist. Consider completing this checklist 2 weeks prior to the procession.

Considerations		Done	Done by whom	When
1.	Have you got submitted the notification form to Moray Council?			
	Have you prepared a Risk Assessment, if required to do so?			
2.	Where is the Procession taking place?			
	Have you considered?			
	• The response/reaction of the local community (i.e. to noise, increased traffic and/or pedestrians)			
	• The ease of access to the event venue (i.e. for the public and emergency services)			
	• Car parking requirements (e.g. spaces required, signage etc)			
• Existing hazards in the area (e.g. uneven pathways, etc)				
3.	When is the Procession taking place?			
	Have you considered?			
	• The time of year (possible extreme weather conditions)			
	• Time of day and day of week (public transport, noise levels, etc)			
4.	Who is likely to attend?			
	Have you considered?			
	• Likely number of people (i.e. sex, age, etc)			
	• Their expectations and needs (e.g. disabled facilities such as parking)			
7.	Have you made emergency arrangements?			
	Have you considered?			
	• Fire prevention			



Considerations		Done	Done by whom	When
	<ul style="list-style-type: none"> • First aid provision? 			
	<ul style="list-style-type: none"> • Police 			
	<ul style="list-style-type: none"> • Others e.g. council departments 			
10.	Stewarding?			
	Have you considered?			
	<ul style="list-style-type: none"> • Competence and relevant training 			
	<ul style="list-style-type: none"> • Specific training for first aid 			
	<ul style="list-style-type: none"> • Organising briefing on the event 			
	<ul style="list-style-type: none"> • Means of communication at the event (two-way radio, mobile phone, public address system, etc) 			
	<ul style="list-style-type: none"> • Providing personal protective/identifiable clothing e.g. high visibility clothing, suitable footwear 			
	<ul style="list-style-type: none"> • Providing essential equipment e.g. torch, site plan and timetable, whistle etc 			
11.	Traffic/vehicles?			
	Have you considered?			
	<ul style="list-style-type: none"> • Segregation of vehicles from pedestrians 			
	<ul style="list-style-type: none"> • Necessary permission, where the event is held on or affects public highway 			
15.	Have you produced a contingency plan?			
	Have you considered?			
	<ul style="list-style-type: none"> • The consequences of extreme weather conditions 			
	<ul style="list-style-type: none"> • The consequences of a major emergency occurring 			
	<ul style="list-style-type: none"> • Cancellation procedures 			
16.	Will public transport be used for those attending the procession?			
	Have you considered?			
	<ul style="list-style-type: none"> • Need for liaison with bus companies, taxis etc (they may be able to add extra services) 			

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4 Code of Practice

Event Organisers and Stewards are asked to adhere to this code of practice and promote its principles to participants.

The Organiser

Safety and Public Order


- Ensure anyone under the influence of alcohol or drugs is not allowed to participate.
- Ensure that an appropriate number of stewards or marshals are available.
- Provide guidance and instruction to Stewards on their role.
- Identify himself/herself to the Police Officer in charge at the commencement of the procession.
- Ensure that all participants have been informed of any conditions imposed on the procession, or changes to timing, route, etc.

Routes

- Ensure that, wherever possible, processions follow main thoroughfares.
- Ensure that the Police are assisted in guaranteeing passage for traffic and pedestrians.
- Ensure that the procession is split into sections in order to avoid serious dislocation of traffic and to facilitate the crossing of pedestrians who have a right of free access and passage to or through any public area.
- Ensure that all playing of music ceases when approaching or passing places of worship while services are in progress as may be instructed by the Police.
- Ensure all participants are dispersed as soon as the procession concludes.

Legal Requirements

- Note that the conditions of Section 62 of the Control of Pollution Act 1974 in relation to the use of loudspeakers shall be observed (generally no use between 10pm and 6am).
- Note that the terms of the Public Order Act 1986 in relation to the prohibition of the wearing of uniforms signifying association with any political organisation etc shall be observed.


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Stewards

- Carry proof of status.
- Co-operate with the Police as required.
- Are highly visible and easily identifiable.
- Conduct themselves in a proper manner.
- Ensure that participants comply with directions regarding their own public safety and that of members of the public.
- Accept that he/she is responsible for the behaviour of all participants including bands where appropriate (or its followers), and for ensuring general compliance with the Council's Policy on Public Processions and Police instructions.
- Ensure that the behaviour of participants could not reasonably be perceived as being deliberately aggressive (that is threatening, abusive, homophobic, sectarian or racist).
- Note that the Council may take into account any public disorder, anti-social behaviour or damage to property resulting from a specific procession, if notification is received from the organiser for a similar march.

Participants

- Behave with due regard for the rights, traditions and feelings of others in the vicinity of the procession, particularly in areas where there has previously been public disorder around processions.
- Behave with due respect at "sensitive" areas such as places of worship.
- Refrain from using words or behaviour which would reasonably be perceived as being deliberately aggressive (that is threatening, abusive, homophobic, sectarian, or racist).
- Obey the lawful direction of procession organisers, stewards and Police at all times.
- Keep to the designated routes.
- Refrain from consuming alcohol or drugs prior to or during the procession.
- Disperse in good order as soon as the procession concludes.

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5 Further Information for Organisers

5.1 Notification Form

If you wish to organise a public procession, you can obtain a notification form from Mr Sean Hoath, Legal & Democratic Services, The Moray Council, High Street, Elgin IV30 1BX

Email: sean.hoath@moray.gov.uk

The notification form asks for:-


1. The Organisers name and address.
 2. The name of the organisation.
 3. The reason for the procession.
 4. The date, time and proposed route.
 5. The number of people likely to take part.
 6. The arrangements for controlling the procession.
 7. The number of buses/coaches involved.
 8. The name of any bands participating.
- Depending on the circumstances of the procession, you may also be asked to submit a Risk Assessment Form. (Annex 1 of this document).
 - You should read the notification form, along with the Council's Policy on Public Processions, and when completing the form take into account all aspects of the Policy. If you believe you have any difficulty in complying with the Policy's conditions, you must explain this in detail when submitting the form and give the reasons why any exceptions to the Policy should be considered.

We expect all organisers to:-

1. Act responsibly in ensuring processions are organised for appropriate purposes.
2. Where appropriate, consider the scope for combining processions, particularly if they repeatedly follow the same route(s) or are set to take place in consecutive weeks.
3. Once you have completed the notification form, it should be forwarded to the office of the Administration Officer.

5.2 Publication of Procession Details

Details of known forthcoming processions will be placed on the Council's website at www.moray.gov.uk . This information will be updated regularly.

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5.3 Enquiries


You can make specific enquiries on particular processions to Mr Sean Hoath, Legal & Democratic Services, The Moray Council, High Street, Elgin IV30 1BX
 Email: sean.hoath@moray.gov.uk

5.4 Other Sources of Information

Guidance for Scottish local authorities on marches and parades in Scotland.
<http://www.scotland.gov.uk/Publications/2006/12/06144351/0>

The Purple Guide
 (Guide to Health, Safety and Welfare at Music and Other Events)
<http://www.thepurpleguide.co.uk/>

An independent Advisory Group's advice on Tackling Sectarianism in Scotland can be found at:
<http://www.gov.scot/Publications/2015/05/4296>

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Annexe One: Risk assessment

Section 2 of the Moray Council Event Safety Guide provides detailed information on the risk assessment process which you may wish to refer to. However, this quick overview may be more appropriate to ensure that the risk assessment carried out is proportionate to the planned procession.

When a risk assessment may be needed

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

General information for the organiser

We are asking you to fill in a risk assessment form to help us 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.


Purpose of filling in the risk-assessment form

A risk assessment for 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 got reduced or eliminated; 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 complete this form

It would be preferable if a suitably qualified person (e.g. someone who is trained in health and safety regulations) completes the risk assessment. If that is not possible, someone else with a strong 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.

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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, 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 within this period, you should speak to the person named at the end of this form for advice.

Next steps

We will assess the risks associated with holding your procession within the first two weeks of us receiving your risk-assessment forms. 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.



Risk Assessment Form for Processions

Section One	
Your Name, Address and Contact Details	
Date and Time of Procession	
Proposed Main Route of Procession	

Section Two	
Question	Supporting Comments (Please provide as much supporting information as you can.)
Is the date of your procession significant?	
Has your organisation marched along this route before?	
Are there enough trained stewards to control the number of participants expected?	
Assess the level of risk there may be to public safety. (indicate whether the risk is low, medium or high)	
Assess the level of risk there may be to public order. (indicate whether the risk is low, medium or high)	
Assess the level of risk of damage to property. (indicate whether the risk is low, medium or high)	



Section Two	
Question	Supporting Comments (Please provide as much supporting information as you can.)
Assess the risk of disruption to local business, the community or shoppers and traffic from holding the procession. (indicate whether the risk is low, medium or high)	
Taking account of all the information in this table, what is your opinion of the overall risk of holding this procession. (low, medium or high?)	
At the end of the procession what are your arrangements for getting participants to go home?	
Are you organising any other social events at the end of the procession. (if so, please detail)	
Is the proposed route shown on your notification a route that your organisation commonly uses?	
Will you need a police presence?	
Have you taken out insurance to help cover any risk arising from the procession?	
What is your assessment of the risk to participants if the route passes through communities which may be against the procession?	
Do you have enough security in place for any coaches or other vehicles used by participants?	
Have you considered the policing and attendant costs for holding the procession?	



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Section Two

Question	Supporting Comments (Please provide as much supporting information as you can.)
Have you assessed what other priorities there may be in the area of the day of the procession?	
Have you considered the effect on the community as a whole if the procession went ahead?	
Could you combine this procession with other similar events in the area? If not why not?	

Section Three

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

--

Please provide any other supporting comments in the box below

--



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Declaration

Signature of the Person carrying out the risk assessment	
Name in block capitals	
Relevant Qualifications of person carrying out the risk assessment	
Signature of organiser	
Name in block capitals	
Date	

Please send this completed risk assessment form to Mr Sean Hoath, Legal & Democratic Services, The Moray Council, High Street, Elgin IV30 1BX

Email: sean.hoath@moray.gov.uk

We will forward a copy of this completed risk assessment to Police Scotland.