

# **CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PART V PUBLIC PROCESSIONS**

## **HOW TO MAKE A REPRESENTATION REGARDING A PROCESSION NOTIFICATION**

### **Background**

Under the Civic Government (Scotland) Act 1982 (“the 1982 Act”) West Lothian Council is responsible for administering notifications from persons proposing to hold public processions. Persons proposing to hold processions in public are required to give a notice to their local council at least 28 days in advance of the date of the procession. It should be noted however that the council has the power to waive this requirement in exceptional circumstances. Before doing this the council will consult with Police Scotland and if the requirement is waived the decision will be publicised on the council’s website, see link below:

<https://www.westlothian.gov.uk/article/34816/Public-Processions-Making-Representations-and-Complaints>

More information about processions can be found by clicking on the link below -

<https://www.westlothian.gov.uk/article/34815/Holding-Public-Processions-Parades->

### **What powers does the council have in administering procession notifications?**

The council, after consulting Police Scotland and considering any other representations or reports received, may prohibit the procession from taking place or impose conditions on the holding of it. However, these powers must be exercised very carefully by the council to ensure that any restrictions placed on notified processions do not breach organisers rights to freedom of peaceful assembly protected in Article 11 of the European Convention on Human Rights (ECHR).

### **How do you find out about procession notifications?**

All notifications of processions in West Lothian received by the Council are advertised on the Tell Me Scotland website (<https://www.tellmesotland.gov.uk/>). In addition, details of all approved processions can be found on the council’s website, see above link.

If you wish to receive notifications of proposed processions in West Lothian you can register to receive alerts about these through the [Tell Me Scotland](#) website. That website allows public notices from across the country to be published in a single location. By registering you will receive text or email alerts regarding notices affecting your area. You can also use the website to search for live and archived notices.

### **Who can submit a representation about a procession notification?**

Anyone can submit a representation. This must be done in writing by email or letter and must include the name and address of the sender. It must be received by the council by the last date for representations stated on the notice displayed on the Tell Me Scotland website. You should be aware that all representations are copied to the applicant. The attached form can be used or referred to as a guide as to content.

## How will my representation be considered?

If any representations or adverse reports are received from the public or the council's advisors about the proposed procession the notification will be referred to the Licensing Committee for a decision to be made. All persons who submit representations will be invited to attend the committee hearing to make an oral submission.

At the committee hearing before making a decision regarding the notification the council will consider any —

- valid written representations (unless withdrawn),
- reports made by in-house advisors and Police Scotland
- written responses given by the organiser and
- oral representations from all of the above parties

## What are the considerations which the council must have regard to when making a decision?

You should note that under the legislation the council has very limited grounds for prohibiting a procession. You may wish to seek legal advice about this before making a representation.

The legislation provides that the only considerations to which the Council shall have regard when deciding whether to prohibit the holding of a procession or impose conditions on it are:

### 1. The likely effect of the holding of the procession in relation to:

- public safety
- public order
- damage to property
- disruption of the life of the community

### 2. 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.

### 3. Where the person proposing to hold the procession has previously held one in that area or the people taking part in the procession, or some of them, are the same persons as took part in one previously in that area, or some of them:

- whether the previous procession was held in breach of a prohibition order issued under Section 63 of the Civic Government (Scotland) Act 1982 on its being held or of a condition so imposed on the holding of it;
- 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
- the effect of the previous procession in relation to public safety; public order; damage to property and disruption of the life of the community.

Please note that the guidance for Scottish Local Authorities issued by the Scottish Government in 2006 [Guidance on Public Processions](#) states that all processions will cause some degree of disruption to communities and businesses. However, it goes on to state that the degree of disruption may not, by itself (or with other events) be enough to prevent people from holding a procession, or from placing conditions on it. Each local authority is required to consider the circumstances of each notification and assess how far the procession would affect the community or any individual or organisation who can reasonably be considered to be part of a community affected by the notification and attach weight accordingly. The local authority is required to consider whether the level of disruption which will or may be caused by a procession will be far greater than the right to free assembly enshrined in Article 11 of the European Convention on Human Rights. It is important that any order which is made about a procession is

a proportionate response to the level of disruption to the community that the procession may cause.

**If I submit a representation can I appeal against the granting of an Order by the council imposing conditions on the holding of a procession?**

Only the organiser of a procession has a right of appeal against any Order issued by the council in respect of the procession or against a variation of any such Order issued.

Please send any representation by email to:

[licensing@westlothian.gov.uk](mailto:licensing@westlothian.gov.uk) or by post to -

West Lothian Council  
Licensing Team  
West Lothian Civic Centre  
Howden Road South  
Livingston  
EH54 6FF

20 November 2019

**OPTIONAL FORM WHICH CAN BE USED TO MAKE REPRESENTATIONS  
IN RELATION TO A PROCESSION NOTIFICATION**

Please read the attached guidance notes on how to make a representation in relation to a procession notification before completing this form. This form when completed should be sent to the Licensing Team using the contact details in the guidance notes.

**1. Full name and address of person making the representation:**

Telephone Number:	
Email Address:	

**2. Details of procession in respect of which the representation is made:**

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**3. Details of your representation (please state your representation in writing in the relevant box, continuing on a separate sheet if necessary. If you are unsure which box to complete, please refer to the guidance notes above.)**

1.	In support of notification	
2.	If you would not have any adverse comments to make regarding the procession taking place if it was made subject to conditions please indicate what conditions you would suggest	

3.	Public safety issues	
4.	Public order issues	
5.	Damage to property issues	
6.	Issues regarding disruption of the life of the community	

7.	The extent to which the containment of risks arising from the procession would place an excessive burden on the police	
8.	<p>Has any previous procession involving the organiser and/ or participants</p> <p>(a) been held in breach of an order to condition imposed?</p> <p>(b) was any guidance or code of conduct followed?</p> <p>(c) what was the effect of the previous procession in relation to public safety, damage to property and disruption of life in the community?</p>	

**Signature:** .....

**Date of signature:** .....

**Privacy Statement – Data Protection**

All personal information that you supply will be used to contact you in connection with your representation. We will share a copy of your representation with the organiser but in so doing we will redact your email address and telephone number.