



Leicester
City Council

- WARDS AFFECTED

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Cabinet

24th September, 2010

Application by the Chief Constable for Order under Section 13 of the Public Order Act, 1986

Report of the Chief Executive

1. PURPOSE OF REPORT

For Cabinet to consider an application by the Chief Constable for an Order to be made under Section 13 of the Public Order Act, 1986.

2. RECOMMENDATIONS

Cabinet is recommended:

- a. To note the law relating to any proposed prohibition of public processions, including the Council's responsibilities for the maintenance of human rights of citizens, in particular the freedom of expression and freedom of assembly and association.
- b. Consider the Chief Constable's request dated 24th September, 2010 for an Order to be made under Section 13 of the Public Order Act, 1986, shown as an **Appendix** to this report;
- c. Consider whether an Order in the terms proposed in the Chief Constable's application would be a proportionate response in the public interest for the purposes of maintaining public order by way of temporary curtailment of the human rights of any person who is interested in supporting the procession or supporting likely counter-demonstration and assembly;
- d. Determine whether or not to seek the Secretary of State's consent to the making of such an Order.
- e. If so determined, authorise the Chief Executive, in consultation with the Director of Legal Services, to submit an appropriate application to the Secretary of State, and if consent is given execute the Order;
- f. Agree, in accord with Cabinet Rule 12(d), that there be no call in of Cabinet's decisions on this matter because of the need for urgent action to be taken.

3. REPORT

3.1 Application received from the Chief Constable

Leicestershire Police have liaised closely with the Leicester community and the City Council in relation to the proposed holding of a procession in the City by the English Defence League on Saturday 9th October. It is known that counter-demonstrations are being planned and the Police have also received an application from Unite Against Fascism to stage a counter-march.

An application by the Chief Constable under Section 13 of the 1986 Act was received on the 24th September, 2010 and is shown in full attached as an **Appendix** to this report.

3.2 The law relating to any proposed prohibition of public processions

If at any time the Chief Constable reasonably believes that, because of particular circumstances existing in the City, his ability to impose conditions on any proposed public procession under Section 12 of the Public Order Act, 1986 will not be sufficient to prevent serious public disorder, he shall apply to the Council in accord with Section 13 of the 1986 Act for an Order prohibiting the holding of all public processions, or any class of public procession (subject to exemptions), in the City or any part of the City. The Order must not exceed 3 months.

On receiving the application from the Chief Constable the Council may, **with the consent of the Secretary of State**, make an Order either in terms of the application or with some modification as may be approved by the Secretary of State.

Organising a procession or taking part in a procession which is banned by such an Order is a criminal offence.

The starting point for all public authorities; that is the Police, Local Authority and Home Office must be facilitation of peaceful protest. This is a legal duty. Human rights implications must be taken into account.

The Chief Constable must initiate the application. The decision to impose restrictions is a Police decision not a Local Authority decision. If the Council has information to inform that threat and risk assessment, they should feed it into the Police but the decision has to be an operational Policing decision against the legal test set out in the Public Order Act 1986.

The Chief Constable must reasonably believe that the circumstances are such that they will not be able to prevent public disorder by the imposition of conditions. A ban on a march is the ultimate restriction

The Police must make an application to the Council and it is for the Council to make the Order but with the consent of the Secretary of State.

Financial implications must not be taken into account when considering whether or not to make an Order.

3.3 Human rights implications

If the Chief Constable does make an application to the City Council to make an Order under Section 13 of the Public Order Act, 1986, this Authority will need to take into account its obligations under the Human Rights Act, 1998 when considering it.

The 1998 Act incorporates the European Convention of Human Rights into English law. Amongst other things, Article 10 of the Conventions provides everyone with a right to freedom of expression, and Article 11 provides for freedom of assembly and association. No restrictions shall be placed on the exercise of these rights other than provided by law and are necessary in a democratic society in the interests of national security or public safety for the prevention of disorder or crime for the protection of health or morals or for the protection of rights and freedom of others.

Human rights legislation does not prevent this Authority from making an Order under Section 13 but does require the Authority to take into account human rights when considering the Police application and ensure that its decision is proportionate to the risks involved and that its action in making an Order is the minimum necessary to secure those interests which may properly be protected under the Conventions.

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1. Financial Implications

None for the purpose of this report.

4.2 Legal Implications

Covered in the report.

5. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph /references with supporting information
Equal Opportunities	Yes	See Chief Constable's application
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	Yes	See Chief Constable's application
Human Rights Act	Yes	Para 3
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

6. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Relevant legislation and the Chief Constable's application shown as an Appendix to this report.

7. CONSULTATIONS

Sheila Lock, Chief Executive
Perry Holmes, Director of Corporate Governance
Jeff Miller, Director of Regeneration, Transport and Highways
Alistair Reid, Strategic Director, Culture and Regeneration
Adrian Russell, Director of Environmental Services
Maggie Shutt, Festivals and Events Manager

8. REPORT AUTHOR

Peter Nicholls, Director of Legal Services, 29 6302.

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