

EVENTS AND PARADES

1. Purpose of Report

To fulfil the request from Councillors Wade-Brown and Foster for a report on the Council's support for parades and other performances.

2. Executive Summary

Information was sought on how and when restrictions may be placed on participation in events and parades by an organisation deemed to be political. This request followed some discussion concerning the exclusion of Falun Dafa (also known as Falun Gong) from the Cuba Street Carnival, the Christmas Parade and the Chinese New Year Parade.

The Public Places Bylaw establishes that the Council is committed to the right of groups to protest in public places and does not fetter or seek to limit that right. The Council is, of course, concerned for ensuring pedestrian and traffic flow along with the health and safety of participants. This position does not mean that the Council either endorses or supports such protest but respects the rights of groups to do so. That situation can be perceived differently when Council funding or support is offered as there can be an implication of support, endorsement or bias by the Council and the Council has a responsibility in terms of stewardship of ratepayer's funds.

Events funding supports a number of parades and events in Wellington including both the Cuba St Carnival and the Chinese New Year Festival. Those events are organised by external organisations which are responsible for making decisions about the format and character of the event or parade. As part of the process of receiving event funding support, organisers are required to enter into contractual agreements with Council. Those agreements include requirements that the events will not bring the Council into disrepute and will be non-offensive and non-political. Those clauses are included because ratepayer funds are supporting the events and it is generally not appropriate for ratepayer funds to be used to promote political causes. Events organisers are charged with making the decision as to inclusion.

In addition to events funded from events funding, the Council also organises events on its own behalf. The events organised by Council are non-political and non-offensive, most have a very clear purpose and there is a mix of "one-off" events such as the Michael Campbell parade and regular events such as Summer City or the Sevens parade. For these events Council officers will have significantly more influence over the content and make decisions about inclusion or exclusion.

Those decisions are made on the basis of sound event management taking account of the character and history of the event, artistic merit and space considerations, these factors making up part of the editorial discretion that must repose in any organiser of an event that carries or celebrates a particular theme or characteristic.

3. Recommendations

It is recommended that the Committee:

1. *Receive the information.*

4. Background

Councillors Foster and Wade-Brown, under Standing Order 148, have requested a report on the requirements and conditions that the Council places upon parades and other performances. Information was sought on how and when restrictions may be placed on participation by an organisation deemed to be political. This request followed some discussion concerning the exclusion of Falun Dafa (also known as Falun Gong) from the Cuba Street Carnival, the Christmas Parade and the Chinese New Year Parade.

In the main there are two mechanisms where the Council may regulate or influence an organisation's ability to protest or participate in parades and events, through the Public Places Bylaw and through its support for various events or parades.

The Public Places Bylaw was adopted in July 2004. It provides that:

17.3 Assembly

17.3.1 *The organiser of an event, demonstration, competition, parade or procession, that is likely to interfere with traffic or pedestrian thoroughfare in a public place shall notify the Council as soon as reasonably practicable prior to the event.*

17.3.2 *After receiving notification, the Council will provide relevant traffic management information to the organiser and/or Police.*

Organisers of public events or demonstrations are not required to seek Council permission but rather, must advise the Council if the activity is likely to interfere with traffic or pedestrian flow so that those effects can be managed.

The Bylaw establishes a clear position that the Council is committed to the right of groups to protest in public places and does not fetter or seek to limit that right. The Council is, of course, concerned for ensuring pedestrian and traffic flow along with the health and safety of participants. This position does not mean that the Council either endorses or supports such protest but respects the rights of groups to do so. That situation can be perceived differently when Council funding or support is offered as there can be an implication of support, endorsement or bias by the Council and the Council has a responsibility in terms of stewardship of ratepayer's funds.

In the main the question of "political action" that the Council could be seen to support comes up in two situations – those events that the Council supports through its events funding and events that the Council arranges on its own behalf. Events supported by the Council are intended to support the Events Strategy and appeal to a broad range of residents and tourists. As a general rule only events that are likely to attract significant

numbers of people are supported by the Council through this mechanism (some smaller events may be supported by grants approved by the Grants Subcommittee). Events supported by grants are not subject to the same conditions.

Events Funding

Events funding is drawn from the Events Development Fund and from community events and is intended to support the Events Strategy which aims to maximise economic contributions to the city, develop a diverse and vibrant year round calendar of events and enhance the events profile of Wellington.

Events funding supports a number of parades and events in Wellington including both the Cuba St Carnival and the Chinese New Year Festival. Those events are organised by external organisations which are responsible for making decisions about the format and character of the event or parade.

As part of the process of receiving event funding support, organisers are required to enter into contractual agreements with Council. The contracts set out a range of terms and conditions under which funding would be provided and the obligations of both parties. Those terms and conditions specify inter alia the event, the level of funding, dispute resolution and event minimum standards. Although the detail within the contract may vary, (for example, the level of funding or the degree of non financial support) generally, the terms and conditions of the contracts are standard.

The two clauses that impact on whether a group may be excluded from an event are:

1. The Organiser will use best practice in carrying out its obligations under this agreement so as not to bring Wellington City Council into disrepute and will pass this obligation on to its officers, employees, contractors or agents in connection with the event.
2. The Organiser will ensure that all activity or signage associated with the event is of a non-political or non-offensive nature.

Council Organised Events

In addition to events funded from events funding, the Council also organises events on its own behalf. The events organised by Council are non-political and non-offensive, most have a very clear purpose and there is a mix of “one-off” events such as the Michael Campbell parade and regular events such as Summer City or the Sevens parade. For these events Council officers will have significantly more influence over the content and make decisions about inclusion or exclusion. Those decisions are made on the basis of sound event management taking account of the character and history of the event, artistic merit and space considerations, these factors making up part of the editorial discretion that must repose in any organiser of an event that carries or celebrates a particular theme or characteristic. There have not been any issues to date with decisions about inclusion and exclusion (other than those concerned with Falun Dafa and discussed in this report).

Groups are generally invited to participate in Council organised events. Past experience, event management expertise and a sound knowledge of both the community and the desired character of the event drive those invitations. If there are gaps or other groups wish to participate, those potential participants are assessed for appropriateness.

No groups or organisations are banned because of who or what they are but rather that editorial discretion is used to ensure the success of the event in line with its objectives. However, in the context of this report it can be noted that no groups with an overt political stance have been invited to participate in events that the Council has organised and if any ask to participate they have invariably been declined on the basis of a likelihood of a lack of fit with the purpose of the event and for the reasons outlined in section 5.1.

To avoid ambiguity in the future it is intended that potential participants (that is, those that have not been specifically invited to participate) will be asked to provide a brief description of what they will portray at the relevant event and accompanying activity and to formally agree to Council requirements (for example, that flyers and brochures will not be distributed, and that there should be no overt political activity).

The Council is now taking responsibility for organising the Christmas Parade. (The Council took over the event management part way through its organisation last year). It is intended that this year the Parade will be shorter so that there are fewer gaps between floats and the entertainment value to children is enhanced. This will mean that some traditional floats may be excluded from future Christmas Parades.

5. Discussion

5.1 The purpose of the non-political clause

The clauses concerned with political neutrality, non-offensiveness and not bringing the Council into disrepute are included in the contract to ensure that the Council's interests and reputation are protected. Specifically these clauses take account of the fact that ratepayer funds are supporting the events and it is generally not appropriate for ratepayer funds to be used to promote political causes. Support for events which subsequently have a political focus of whatever persuasion could be seen to be support for that political view and create pressure for the Council to provide equal support for a balancing view, particularly given that generally Council support is acknowledged or recognised through branding.

The core focus of events support is to develop events which encourage community celebration, collaboration, entertainment and participation. If there is potential for the focus of an event to be superseded or subsumed by activities of a political or offensive nature, then the key reason for supporting the event (e.g. celebration, collaboration) may be lost. The presence of political activity at these gatherings could be counter productive and serve to alienate groups rather than bring them together.

The Economy and Arts Committee considered this issue in June 2004 following the (only) previous instance when a group objected to being excluded from the Cuba Street Carnival parade on political grounds. At that time the Committee endorsed the approach taken by officers in events management.

Anecdotal customer feedback from event goers indicates that they prefer not to be exposed to political messages when they are participating in or enjoying a community event and they certainly do not wish to be exposed to anything of an offensive nature. The absence of political activity in most cases is seen to increase the likelihood of participant satisfaction and enjoyment and therefore ensure a better investment for event funding.

A wide range of groups could be considered to have a political dimension and yet in many instances may be appropriate to include them within parades or events. Some participants may have political content yet not by their nature be political. It would be unrealistic for example to expect comedians to exclude any political material from a Council sponsored event such as the Fringe Festival. This can still be perfectly appropriate for inclusion as the characteristic is comedy not overtly political. There are also some participants in events and parades that are appropriate for one parade but not another, for example the contrast between the Christmas Parade (targeted at children) and the Cuba Street Carnival – more funky, adult and edgy.

In effect, it is not necessarily whether a group or organisation is political but how the group represents itself at the event. That is, it is usually not appropriate for participants to take overt political action during a Council funded event. One way of clarifying the Council's position may be to replace the term “political” with “appropriate” in the Council funding contracts such that the relevant clause reads:

The Organiser will ensure that all activity and signage associated with the event is appropriate (including not having any overtly political content) and is non-offensive in nature.

5.2 Interpretation of non-political clause by event organisers

The interpretation of the clause is ultimately for the event organisers as they are dealing directly with potential participants, not Council officers. The Council is usually only a partial funder of events. The event organiser along with other funders will usually have parameters around the type of participation that is appropriate taking account of the target audience, other spectators and the character of the event. Given the event organiser is working to a vision of the event or parade in terms of size, entertainment value, cost and general “flavour” of the event it is more appropriate that the event organiser is responsible for making any decisions about including or excluding any participants. Event organisers are aware of the ambience they are striving for and the target audience for the event and would naturally take those factors into account in determining appropriate participation.

5.3 Interpretation of non-political clause by officers

Officers monitor the events that are supported by the Council to ensure the events are reaching the expected levels of support and contributing to the aims of the Events Strategy. Council officer's involvement has been limited to queries from event organisers as to whether the Council considers particular groups to be political in nature. Officers do not determine the content of a parade or event and so far, have not had cause to withdraw or withhold funding from an event because an event organiser has either brought the Council into disrepute or the event has been inappropriate for Council support.

Officers have considerable event management expertise and usually work with event organisers to ensure the success of an event.

In relation to events organised by the Council on its own behalf, as noted above, Council officers will have significantly more influence over the content and make decisions about inclusion or exclusion. Those decisions are made on the basis of sound event management taking account of the character of the event, artistic merit and space considerations, that is, editorial discretion. There have not been any issues to date with decisions about inclusion and exclusion.

The Council has supported or managed thousands of events over the years and there have only been two situations that we are aware of where an organisation has been excluded from an event for reasons related to the clauses concerning political neutrality or disrepute. The first was an issue over a group involved in the Cuba Street Carnival in 2004 and the second was Falun Dafa in 2007.

5.3 New Zealand Bill of Rights Act considerations

The New Zealand Bill of Rights Act 1990 provides that everyone has the right to freedom from discrimination and freedom of expression.

It was claimed on behalf of the Falun Dafa that the decision to exclude the Falun Dafa from the Chinese New Year parade was a breach of this Act by the Council (specifically that it restricted freedom of expression and discriminated on the basis of religious or ethical belief). Council officers do not consider that the contract discriminates on the basis of a particular political, religious or ethical belief, but applies a blanket policy to all groups equally and therefore the Council's offer of contracts including the standard clauses does not breach the Act. It is a matter for event organisers to make their own decisions as to whether to include a particular group or not at their event, weighing the impact that might have on their funding.

Even if it was found that the exclusion of funding for events with a political aspect was an infringement of rights in the Act those rights are subject to 'such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society' and Council officers consider that any possible limitation of rights is justifiable given the matters set out above.

The Council would not wish to support events organisers that were discriminating against a group on the grounds of religious or ethical belief or indeed any other of the prohibited grounds of discrimination as set out in the Human Rights Act 1993. What Council officers and external events organisers do is make decisions about whether a group "fits" with an event and that fit is determined on the basis of criteria or parameters based on the particular event. There are instances where groups will be excluded on the basis of artistic merit or because they do not contribute to the character of the event or because of space considerations. This constitutes editorial discretion or decision making, not unlawful discrimination.

5.4 Participation of Falun Dafa

5.4.1 Eligibility

As noted above, Falun Dafa are eligible to apply to be included in any event or parade and the decision making process as to their inclusion would be the same as for any other

group or organisation. If the event is being organised by an external organisation the event organiser is responsible for determining the format and content of the event/parade. If the Council is organising the event, decisions are made on the basis of editorial discretion made up of factors such as artistic merit, character of the event, target audience, historic engagement and size of event. Therefore any application for inclusion from that group would be considered in the context of the event.

5.4.2 Cuba Street Carnival

The Cuba Street Carnival was partially funded by the Wellington City Council and managed by the Cuba Carnival Trust. Falun Dafa were advised by the Trust that they would be unable to participate in the parade because they were deemed to be participating with an overt political agenda. Despite the wishes of the organisers Falun Dafa “gate-crashed” the Cuba Carnival Parade.

5.4.3 Chinese New Year

The Chinese New Year celebrations are partially funded by the Wellington City Council and managed by the Asian Events Trust. Falun Dafa were originally given permission by Wellington City Council to take part in the 2007 Chinese New Year parade. That permission was given in error. The Council informed Falun Dafa of the error and apologised for providing them with incorrect information.

In turn, the Asian Events Trust advised Falun Dafa that approval for Falun Dafa to participate in Chinese New Year Festival activities was withdrawn. That decision was made to enable the Trust to comply with the terms of the funding contract that they had with Wellington City Council. Falun Dafa arrived at the parade assembly area and disrupted the set-up of the parade and despite the wishes of the Trust, Falun Dafa “gate crashed” the Chinese New Year Parade.

In 2006 Falun Dafa did not apply to participate in the Wellington Chinese New Year Festival at all. According to the organisers the group turned up at Frank Kitts Park during the afternoon of entertainment and set up signs and pictures of alleged torture victims etc. When asked to remove this material because it was not appropriate for a community event the group refused.

5.4.4 Christmas Parade

Falun Dafa applied to participate in the 2006 Christmas Parade and were declined on the basis that there was an intent to shorten the Parade and because of the inclusion of the Wellington Chinese Sports and Cultural Centre Chinese themed float. That float was preferred because it included a Chinese dragon and dancers that have participated over many years to popular acclaim.

In summary, the Council is one of a number of funders of these events and event organisers agree to ensure that activities are of a non-political and non-offensive nature. No specific groups are targeted or exempt from such conditions.

6. Conclusion

This report describes the Council’s position on political protests generally and in particular political activity at Council funded or supported events. Events and parades that the Council supports generally aim to have high entertainment value, are celebratory and support community participation. Decisions as to whether a group may

participate in a parade or event are made by the event organiser. In instances where the event organiser is the Council, those decisions take account of factors such as artistic merit, the nature of the event and space considerations. Generally it is not appropriate for Council funded events to be perceived as endorsing a political agenda.

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Supporting Information

1) Strategic Fit / Strategic Outcome

The report is consistent with the strategic outcomes:

3.1 Stronger sense of place: Wellington will be a prime tourist and conference destination, with diverse and changing attractions that fit and highlight Wellington's best features.

3.3 More eventful: Wellington will maximise the economic value from promoting and hosting high profile events.

2) LTCCP/Annual Plan reference and long term financial impact

n/a

3) Treaty of Waitangi considerations

n/a

4) Decision-Making

This is not a significant decision.

5) Consultation

a) General Consultation

n/a

b) Consultation with Maori

n/a

6) Legal Implications

Council's lawyers have been consulted during the development of this report.

7) Consistency with existing policy

This report is consistent with current policy.