

The Highland Council
Communities and Partnerships Committee
9 June 2016

Agenda Item	11 (b)
Report No	CP 17/16

Community Empowerment Act 2015: Part 3 Participation Requests

Report by Acting Head of Policy

Summary

This report outlines the draft response to the Scottish Government consultation on the draft regulations for Participation Requests under the Community Empowerment Act.

The Committee is invited to consider the response, suggest any amendments and agree a final response.

1. Background

- 1.1 The Community Empowerment Act (Scotland) 2015 introduces a suite of measures to support communities to improve outcomes in their community. A key measure is Part 3 of the Act-Participation Requests.

2. Participation Requests

- 2.1 A Participation Request enables a community body (including community councils) to request to take part in an outcome improvement process. The intention is to provide a new way for communities to initiate dialogue with public bodies on their own terms, with scope to raise issues that might not be open to consultation. To do this they need to say what the outcome is, why they should take part and include a description of their expertise and what improvement they expect their involvement to make.

- 2.2 In responding to participation requests consideration has to be made of whether it will improve:

- Economic development;
- Regeneration;
- Public health;
- Social wellbeing;
- Environmental wellbeing; and/or
- Reduce inequalities; and
- Involve people experiencing disadvantage

3. The Process

- 3.1 Requests can be made to 11 of the 16 listed bodies and can be made to more than one body at the same time.

The 11 listed bodies are: *Board of a college of further or higher education; Health Board; HIE; Council; National Park Authority; Police Scotland; SFRS; SEPA; SNH; HITRANS.*

- 3.2 Requests must be agreed unless there are reasonable grounds for refusal. This does not automatically mean that the community body's proposal must be agreed to, but it has to be heard and documented. Where requests are declined repeat requests cannot be made within a two year period. Where requests are agreed the process for improving the outcome is to be set out including how the community body and any others are to participate. Community bodies can make representations about the process within a 28 day period and the process can be modified.
- 3.3 Once initiated the process should conclude within 90 days. When the process is complete a report must be published by the public body/bodies affected detailing the process, what changed as a result of it, how the community body influenced the change and how they are to be kept engaged. In addition the views of the community body about the process and its view of its involvement are to be included.
- 3.4 All public bodies with this duty are to publish an annual report by 30 June (for the previous financial year) on participation requests received, agreed or refused, the number leading to improvement, how requests are promoted and how community bodies were supported to participate.

4.0 Proposed Council Response

- 4.1 The full consultation document and explanatory notes can be found at: <https://consult.scotland.gov.uk/community-empowerment-unit/participation-request-regulations>
- 4.2 The draft response to the consultation can be found at **Appendix 1**. The questions asked as part of the consultation are around the following themes:-
- The desirability of requiring all CPPs to use the same statutory form to log participation requests.
 - The timescales for public bodies organising themselves to jointly respond when an improvement process involves more than one body – proposed 14 days.
 - How public bodies should promote the use of participation requests.
 - How public bodies should support community bodies to make a participation request and participate in an outcome.
 - Timescales for assessing the request – proposed 30 days.
 - Information requirements for a decision notice.
- 4.3 Key elements of the draft response have been structured to reflect the Highland picture. They are as follows:-
- That participation request should be submitted on a form in order that the required information is captured accurately, however, this should be a locally generated one in order that it can reflect Highland circumstances.
 - The suggested response time from partner public bodies involved in request should be 20 working days rather than 14 days.
 - That specific promotion of the facility to make requests and support to make them should be directed at groups within areas of deprivation and those from potentially more vulnerable groupings.
 - That a single point of contact to deal with an individual request is identified.

- That the facility offers a valuable structure to communities to engage with public bodies, however the language used in the rolling out the system should be more community friendly.

It is recommended that Members consider the draft response in Appendix 1, suggest any amendments and agree a final submission.

5. Implications

- 5.1 Resource: There is no new or additional funding to support the implementation of participation requests. It is not anticipated that a costly system is required to manage the process however it will require officer time within services to manage and engage in an outcome improvement process with communities.
- 5.2 Legal: The guidance sets out how the Government wishes Community Planning Partnerships to meet the duties contained within the Community Empowerment Act.
- 5.3 Equalities: The Act allows for the regulations to specify which types of communities may need additional support to engage in the participation process
- 5.4 Climate Change/Carbon Clever implications: None identified at this time.
- 5.5 Risk implications: There is a risk that the Highland CPP does not comply with the new legislation. This is being mitigated by taking early action with partners in advance of the new duties coming into place.
- 5.6 Gaelic implications: None identified at this time.
- 5.7 Rural implications: None identified at this time.

6. Recommendation

Members are asked to:-

- Note the content of the consultation on the draft guidance and regulation for Part 3 Participation Requests under the Community Empowerment Act.
- Consider the draft response in Appendix 1, suggest any amendments and agree a final submission.

Designation: Community and Democratic Engagement Manager

Date: 26 May 2016

Author: Pablo Mascarenhas

Background Papers: Appendix 1 – Draft Response to Part 3 Participation Requests of the Community Empowerment Act

Consultation on the Draft Participation Request

(Procedure)(Scotland) Regulations 2016

Participation Requests under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations

Questionnaire

Q1: Should the use of a statutory form be required in the regulations?

Yes No

Please give reasons for your response.

We don't object to the regulations stipulating that a form should be required in order to effectively record participation requests but we do not agree that a prescribed form should be set down in regulation.

It would be preferable to develop a local form/checklist that could -

- Reflect local geography
- Be framed to local organisational structures
- Guide responses to local outcomes
- Utilise language that is meaningful to communities
- Capture the range of local bodies that may be in scope
- Be integrated to associated local systems that exist e.g FOI
- Contain local information on where to access guidance and support
- Fit with local culture e.g. Gaelic Language
- Be able to be adapted as knowledge and experience of participation requests develops

Q2: Should it be possible for a community body to put in a participation request without using a form?

Yes No

Please give reasons for your response.

A participation request is a formal request set down in Legislation and requires a response within a specific timescale. It is therefore vital that this is recorded appropriately and a form would help ensure that the request is dealt with as effectively and efficiently as possible by providing all the required information so that the request can be routed to the correct organisation/part of an organisation.

This is not to say that discussions around outcome improvements would not be taking place in informal settings – and this is something we will be encouraging – however unless it is logged via the use of a form, it should not be regarded as a formal participation request.

Q3: What else might a statutory form usefully cover beyond the example set out in Annex B?

We would want to be able to develop a local form/checklist that could -

- Reflect local geography
- Be framed to local organisational structures
- Guide responses to local outcomes
- Capture the range of local bodies that may be in scope
- Be integrated to associated local systems that exist e.g FOI
- Contain local information on where to access guidance and support
- Fit with local culture e.g. Gaelic Language
- Be able to be adapted as knowledge and experience of participation requests develops

Q4: Is 14 days a reasonable amount of time for additional public service authorities to respond?

Yes No

If not, please suggest an alternative timescale and explain reasons for the change.

The intention of the Act is to foster an open and transparent relationship between communities and public bodies. Clear and appropriate response times are an important element of doing this. However a 14 day response time could be difficult to maintain during holiday periods, periods of organisational change or where some negotiation on bodies that are in scope needs to take place. It is suggested that a 20 working day response time would allow public bodies to meet the commitments in the Act.

Q5: What, if any, are the particular/specific ways that public service authorities should promote the use of participation request?

Participation requests should be promoted at both national and local levels. It is important that promotion of the facility should raise awareness of the purpose of requests i.e. to facilitate a dialogue rather than just promote the mechanism.

Promotion of the facility should be particularly directed to communities and groups that struggle to articulate and have their views heard. This would include specific measures to reach and support those in-

- Areas of deprivation identified in Local Improvement plans and within this areas with Locality plans
- Groups with protected characteristics as identified in the Equality Act
- Particularly vulnerable groupings such as inward migrants/refugees
- Tenants groups

In order to promote this effectively there would need to a multi-faceted approach utilising-

- A national launch with local launches
- Printed as well as online publicity
- Identified support structures for the communities described above

It is vital that as we move towards the implementation phase of the Act that consideration is given to the use of terminology and the meaningfulness of this to communities. Whilst it is recognised that it has been necessary to use certain language as part of the Act, as we move into implementation, this needs to be revised to ensure it is more accessible for communities. It will be vital that the guidance reflects this.

Q6: What are the ways that public service authorities should support community participation bodies to make a participation request and participate in an outcome improvement process that should be set out in the regulations?

The most effective support to communities to participate is where all public bodies work effectively in partnership to provide support and a route to make a participation request across that partnership.

It is important that communities are aware of a local first point of contact with public bodies and that that point of contact is accessible, and aware of the purpose and requirements of the Community Empowerment Act.

The regulations could stipulate that a single point of contact is assigned to a community body. They could also encourage the facility for an informal dialogue prior to any participation request.

Community participation bodies may need support and advice to-

- Articulate their interest
- Understand with whom and how to progress the dialogue
- Background information to support their request e.g data around population, poverty, current service levels and resources
- Access to ICT facilities

Q7: What types of communities could the regulations specify that may need additional support? Please give reasons for your response.

Additional support is likely to be required by the following broad groupings/communities-

- Areas of deprivation identified in Local Improvement plans and within this areas with Locality plans
- Groups with protected characteristics as identified in the Equality Act
- Particularly vulnerable groupings such as inward migrants/refugees
- Tenants groups
- Groups in super sparse areas with less direct access to public bodies staff members

The above groupings/communities would require this support as often they have less capacity in terms of-

- Community leadership
- Effective organisations supporting their community e.g third sector bodies
- Access to physical and financial resources
- Awareness of political and organisational structures and mechanisms

Q8: How long should the public service authority have to assess the participation request and give notice to the community participation body? Is 30 days a reasonable amount of time?

Yes No

If not, how long should the period for making a decision be? Please give reasons for your response.

It would be preferable to have a working days timescale. It is suggested 30 working days.

Q9: Are there any additional information requirements that should be included in connection with a decision notice? Please give reasons for your response.

Yes the decision notice should be complemented by –

- The contact details of a single point of contact for the group in the lead public body.
- Information on where they can access support and guidance

Q10: What other information, if any, should the regulations specify should be published in relation to the proposed outcome improvement process? Please give reasons for your response.

The proposed outcome improvement process should in addition provide –

- The contact details of a single point of contact for the group in the lead public body.
- Information on where they can access support and guidance

Often communities find public body structures difficult to access. A lead officer arrangement would improve the process.

Q11: What other information, if any, should the regulations specify should be published in relation to the modified outcome improvement process? Please give reasons for your response.

None

Q12: Section 31 sets out the aspects that the report of the outcome improvement process must contain. What other information, if any, should the regulations require the report include? Please give reasons for your response.

It is likely that we would supplement the report with locally relevant information it would therefore be desirable that any template was adaptable to local circumstance.

Q13: : Do you have any other comments on the draft Participation Request (Procedure)(Scotland) Regulations 2016?

We welcome the structure it will give to engaging with communities. The regulations as laid out appear to provide that structure whilst allowing the necessary flexibility to reflect local conditions.

It is vital that as we move towards the implementation phase of the Act that consideration is given to the use of terminology and the meaningfulness of this to communities. Whilst it is recognised that it has been necessary to use certain language as part of the Act, as we move into implementation, this needs to be more accessible for communities. It will be vital that the guidance reflects this.