

The Highland Council
Communities and Partnerships Committee
8 December 2016

Agenda Item	12
Report No	CP 32/16

The Community Empowerment (Scotland) Act 2015-Participation Requests

Report by Acting Head of Policy

Summary

The Community Empowerment (Scotland) Act 2015 seeks to strengthen and empower communities. Participation requests are a new process which will allow a **community body to enter into dialogue** with public authorities about local issues and local services on their terms.

Where a community body believes it could help to improve an outcome it will be able to request that the public body takes part in a process to improve that outcome. Members are asked to consider and agree the draft Council approach, subject to final guidance being published by the Scottish Government

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.
- 1.2 The report sets out the legislative context for participation requests and a proposed approach to take this forward in Highland. Members are asked to consider and agree the draft Council approach, subject to final guidance being published by the Scottish Government.

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 and published, 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 agreed, the community participation process should begin within 90 days. There is no specified time period for how long the process may take. 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 30th 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 Developing a Highland Council Process for a Community Participation Process

- 4.1 In order to meet the requirements of the Act and to facilitate a positive dialogue with our communities it is necessary to build a process that considers the following –
- How different services within the Council and in partner agencies collaborate to facilitate a dialogue with communities-communities will often approach us about a specific service; however they will also wish to discuss outcomes which a range of services and agencies contribute to the delivery of.
 - The process is “owned” by the most relevant service or agency
 - A key contact is provided for communities
 - Local Elected Members are aware, involved and their knowledge and experience contributes to the process.
 - Communities are supported to articulate their request
 - Relevant information to support the request and subsequent dialogue is

provided

- The process takes cognisance and links to ongoing engagement and discussion.
- We meet the requirements of the legislation in terms of timescales for responding, planning the process and reporting on it.
- An overview of how we are meeting the requirement is monitored and

4.2 A proposed system to manage the process is attached as appendix 1. This includes a flow chart and a community facing process outline. Key features of the approach are:

- A single point of contact for groups to submit participation requests to. These will then be allocated to the most appropriate service to deal with.
- A single form for groups to complete to submit their participation request. This core information will assist in directly the request to the most appropriate officer and consider what form the Community Participation Process might take.
- Language – it is proposed that rather than terming this an ‘outcome improvement process’ as described in the Act, more community friendly language is used e.g. Community Participation Process.

5. Implementation and Review

5.1 The final guidance for this section of the Act has not yet been published although it is understood the implementation date will be similar to Asset Transfer and be the end of January. The approach outlined is therefore a draft a the current time subject to any amendments that may be required on publication of the final guidance.

5.2 Participation Requests are a new duty for public bodies and how this will operate will emerge in the coming months. It will be important to review our processes over the course of the first year of implementation, to ensure that we are responding effectively to communities and have the most appropriate processes in place.

6. Implications – To be completed

6.1 Resource: There is no new or existing funding to support the implementation of participations requests. Facilitating and supporting the process will need to be managed within current resources.

Legal: The Community Empowerment Act requires us to have a participation requests process. The expected guidance will allow us to check our draft process meets the requirements of the legislation.

Equalities: It is likely that more vulnerable communities will require additional support to articulate requests and engage in a participation request. It will be important to signpost groups to specific support that meets there needs.

Climate Change/Carbon Clever: None identified at this time.

Risk: There is a risk that the Council does not comply with the new legislation however by establishing a new process and checking it meets the requirements of the legislation this risk should be mitigated.

Gaelic: None identified at this time.

Rural implications: None identified at this time.

Recommendation

Members are asked to:

- Note the new legislative requirements for Participation Requests.
- Consider and agree the draft Council approach, subject to final guidance being published by the Scottish Government.

Designation: Acting Head of Policy

Date: 23/11/16

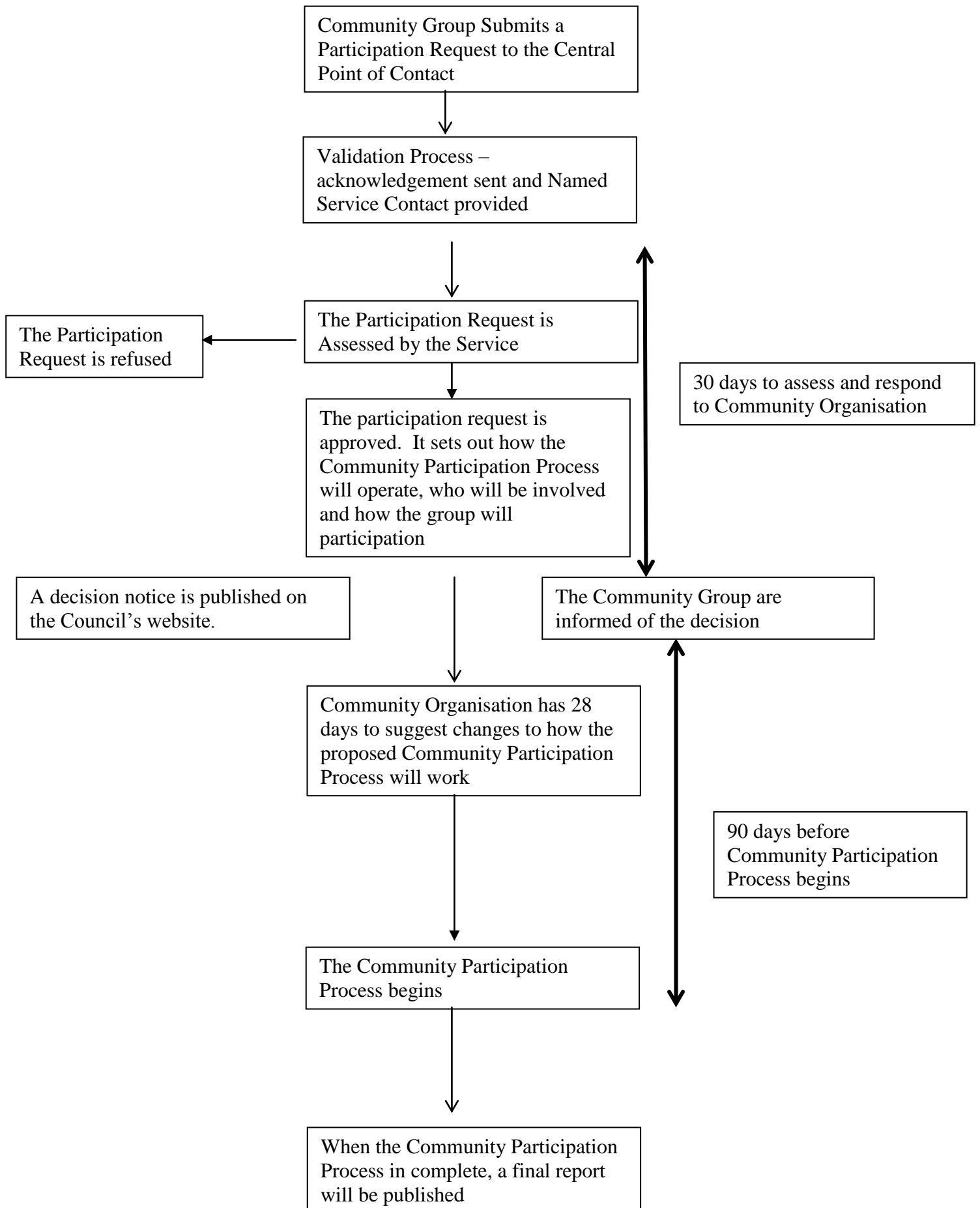
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Background Papers:

Appendix 1: Participation Request Approach Flow Chart

Appendix 2: Participation Requests - Community Facing Process

Highland Council Community Participation Request Approach



Highland Council Participation Requests - Community Facing Approach

Who can submit a participation request?

- Any group can submit a participation request as long as the membership is open to the community and whose work is for the benefit of the community.
- Community applies to both geographical communities and communities of interest.
- The group does not need to have a constitution and can be incorporated or unincorporated.
- Community Councils are included.

Who can a participation request be made to?

- Any public body named in the Community Empowerment Act: Local Authorities, colleges and universities, health boards, Highlands and Islands enterprise, police, fire, Scottish Natural heritage, regional transport partnerships, national parks and the Scottish Environment Protection Agency.

What is a participation request?

- A request from a community group to have a discussion with a public body around a particular issue or topic that would result in an improvement to that area of service.
- If the request is agreed to, a Community Participation Process will then take place involving the community group and public body. How this will be done will depend upon the nature of the request.

What is not a participation request?

- It is not a replacement for consultation or other forms of engagement
- Not a complaints process for something a group is unhappy with

What a participation request should include?

- Groups should complete the participation request form and submit it to the central point of contact for participation requests
- This will detail what service area the group wants to improve – the outcome – and what improvement they want to see
- This will detail why the group wants to have this discussion and what it thinks it can bring to the process

What do groups need to do?

- Before submitting a request, speak to someone about what you are interested in. This may be your local Councillor or service contact.
- Complete a form to register your participation request
- Be willing to participate and positively engage in the process

What we will do?

Contact

- When a request is submitted it will be checked to make sure all the information is there – that you have approached the right organisation, whether your group is a Community Participation Group and whether any other organisations should also be involved.
- If it is a valid request, you will be sent an acknowledgement with a date from when the formal request has been received and also the details of a named contact within the service relevant to the request. This person will be your contact going forward.
- If it is not a valid request, you will be contacted and advised what the issue is.

Assessment

- We will assess your request and respond to you within 30 days of the date provided.
- When assessing your request we will consider whether your request:
 1. Would be likely to promote or improve:
 - Economic development
 - Regeneration
 - Public health
 - Social wellbeing
 - Environment wellbeing
 2. Would reduce inequalities of outcome which result from socio-economic disadvantage.
 3. Lead to an increase in participation
 4. Any other benefits that may arise

Decision

- We will agree to your request unless there are reasonable grounds for refusing.
- If we do refuse your request we must explain why we are doing so.
- We can refuse a request if it is the same or essentially the same as a request received in the last 2 years. We can refuse a request on these grounds even if it was from a different community group.
- We will contact you and let you know of our decision. This will include how we propose to take forward the Community Participation Process, how we propose you be involved and who else might be involved.
- We will also publish this decision on the Council's website

Community Participation Process

- You will have 28 days to suggest any changes to how we propose the Community Participation Process takes place.
- We will listen to your representation and consider the proposed change. A further notice will be published on the Council's website.
- The Community Participation Process will begin within 90 days of the decision being taken.
- There is no set timescale for how long a Community Participation Process this and will be agreed between the us.

Highland Council Community Participation Requests

Organisation Request Form

A national participation request form is anticipated and therefore this section will be finalised on publication of the final guidance from the Scottish Government.