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Consultation on regulations and statutory guidance in relation to Part 3 of the Community Empowerment (Scotland) Act - 'Participation Requests'

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Introduction

The Community Empowerment (Scotland) Act received Royal Assent on 24 July 2015. This SCDC briefing aims to introduce and outline the forthcoming consultation around Part 3 of the Act - 'Participation Requests', and the development of associated statutory regulations and guidance which are needed to fill in the detail of how participation requests will work in practice.

This briefing acts as the starting point for a period of intensive consultation being undertaken by SCDC, on behalf of Scottish Government, to help inform the scope of the regulations and the content of the statutory guidance. This consultation will run alongside the formal consultation being undertaken by Scottish Government between March and June 2016. The consultation process undertaken by SCDC is intended to ensure that the full range of community voices is heard in the development of both the guidance and the regulations.

A full outline of the proposed process and timescales is given at the end of this briefing.

Participation requests

What are participation requests?

The explanatory notes accompanying the Community Empowerment (Scotland) Act define participation requests as follows:

“This Part sets out how a “community participation body” can make a request to a “public service authority” to participate in a process with a view to improving an outcome that results from (or is contributed to by virtue of) the provision of a public service, and how public service authorities are to deal with such requests.”¹

Participation requests are potentially of great value for communities that have identified a need, issue or opportunity to tackle inequality, to contribute to regeneration or economic development, or to improve health or wellbeing. This is because they give communities the power to set the agenda and to propose ways in which their needs or issues can be better understood. They also give communities the opportunity to set out how they can become involved in helping to achieve the changes or improvements they want to see.

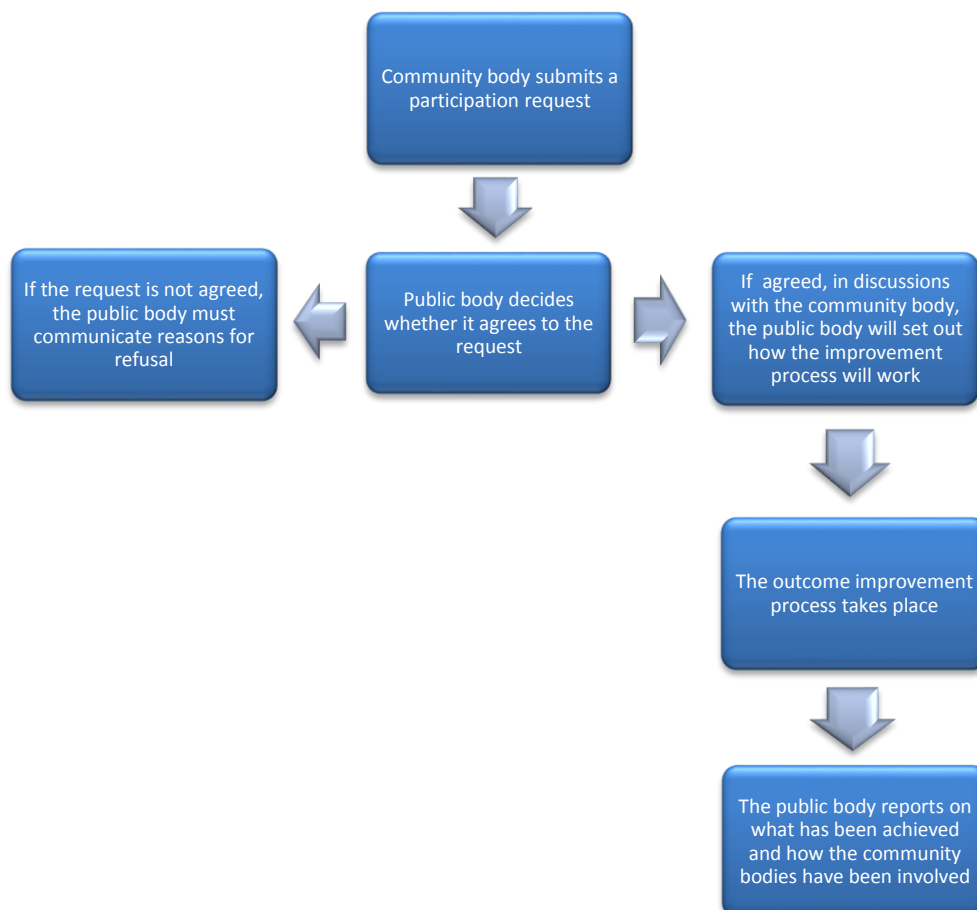
Participation requests should not be viewed as a replacement for engagement and participation processes where they already function well, but as an opportunity for communities to establish formal dialogue where they find it difficult to be recognised or heard, or where they want to proactively influence the agenda. This is a highly

¹ <http://www.legislation.gov.uk/asp/2015/6/notes/division/3/3>

significant advance in the ways in which public bodies will now be expected to work constructively with communities of place (neighbourhoods or other defined geographical areas) or communities of interest (groups of people with a common interest or identity).

Participation requests are designed to enable community bodies to help improve outcomes² that are relevant or important to them by requesting to take part in an “outcome improvement process”. The depth of the work will vary depending on the local context and the issues to be addressed but the outcome improvement process can broadly be described as community bodies and agencies working together to achieve positive changes for individuals, families, communities or localities.

The detail of how the participation request process will work in practice will be informed by the regulations and guidance which are currently being developed however, the Community Empowerment (Scotland) Act sets out the key stages of the process as follows:



² Outcomes are the changes that result from what organisations provide or deliver e.g. improved environment and increase in physical activity levels arising from the development of a community park

Who can make a participation request?

In order to request to improve an outcome, a community organisation does not have to be a legally constituted group, but it must be community-led, meaning that those who make up the group are from the community they seek to represent. Membership must be open to the whole community and the work of the group (including any profits generated by the group or organisation) must be for the benefit of the community. Community Councils are included.

The Act does not specify that community bodies have to be geographically defined in order to make a participation request. This enables community organisations that are formed around a shared identity or characteristic, such as ethnicity, disability or sexual orientation, to initiate participation requests if they want to improve an outcome relating to their community of interest.

Who can receive a participation request?

Participation requests can be made to local authorities, colleges and universities, health boards, Scottish Enterprise, Highlands & Islands Enterprise, the police, the fire service, Scottish Natural Heritage, regional transport partnerships, national parks and the Scottish Environment Protection Agency. The requirement to respond to participation requests does not apply to agencies working on reserved matters (issues under Westminster control). This includes agencies related to employment, welfare, immigration and defence.

Regulations and guidance

What are regulations?

Regulations are a type of “secondary legislation”. The Act (“primary legislation”), which has been agreed by the Scottish Parliament, says that Scottish Ministers may make regulations about certain aspects of the primary legislation. Those regulations have to be considered by the Parliament before they can come into effect.

Regulations are used to set out detail on technical issues and they can be updated more quickly than an Act if changes are needed. They are law and everyone has to comply with them.

What regulations are needed for participation requests?

In relation to the participation requests part of the Community Empowerment (Scotland) Act the regulations will provide more details of how the participation request process will work in practice. The regulations are likely to cover:

- the process by which requests are to be made;
- the steps public bodies need to take when receiving a participation request;
- what additional information needs to be provided by the community bodies submitting requests;
- what steps public bodies need to take in conducting an outcome improvement process;
- what support communities might be given to help them make effective participation requests; and
- ways in which public bodies are to promote the use of participation requests.

What is statutory guidance?

The purpose of statutory guidance in relation to participation requests is to advise public bodies and community bodies on good practice in making and responding to participation requests. Whilst statutory guidance is not compulsory there is still a requirement for those bodies to which it applies, to have regard to what the guidance contains. Guidance gives advice about how to implement the legislation and accompanying regulations. It can give examples and suggestions about best practice and can be flexible to allow for different circumstances. Guidance can also provide links to other helpful information and organisations and can be updated at any time.

Consultation on participation requests

The consultation process and timetable

Scottish Government's intention is to consult widely about the development of both the regulations and guidance. The intended timetable for the consultation is as follows:

- March – June 2016: formal consultation on draft regulations led by Scottish Government.
- March – June 2016: consultation led by SCDC on the detail of the regulations and statutory guidance content.
- Summer 2016: revision of draft regulations.
- April – September 2016: consultation on and completion of guidance.
- September 2016: Scottish Parliament scrutinises regulations and can approve or reject them.
- October 2016: legislation comes into force.

What to expect from SCDC

SCDC will be undertaking an extensive awareness-raising and consultation process on the detail of the regulations and statutory guidance content. This is designed to add to the formal consultation on the regulations and to identify priority areas for inclusion in the guidance. In this consultation we aim to reach as broad a range of voices as possible from communities both of place and of interest. In particular we are aiming to reach those who may not normally be involved in responding to formal consultation processes. In order to do this we will use our wide range of community networks and contacts as well as linking in to other national networks as appropriate.

Our awareness-raising and consultation process will begin in March 2016 and will run through to June 2016. As part of the process we will:

- produce information about the process on a regular basis via briefings, website news articles, Facebook and Twitter – we will also use these methods to feedback to participants as the consultation process progresses;
- run a number of focus groups across the country to seek the views of a wide range of people; and

- consult on the key themes identified through an electronic survey.

Our consultation will focus on the key areas of:

- preparing a participation request – process and support;
- participating in an outcome improvement process – process and support; and
- monitoring and reporting on the participation request process.

Local focus groups will be held in the following locations on the following dates:

18 th April (morning)	Kilmarnock	Ayrshire College
25 th April (afternoon)	Stirling	Volunteer Scotland
10 th May (morning)	Dundee	DCA
11 th May (afternoon)	Inverness	Spectrum Centre
19 th May (morning)	Edinburgh	Melting Pot
24 th May (morning)	Glasgow	Betty's Room, EVH

In addition to these local focus groups, we will be organising two focus groups for national organisations, further details of which will be announced shortly. More details about all the focus group sessions will be made available through our communication channels on a regular basis.

It is important to note that, although this consultation will have scope to influence the content of the regulations and guidance, it has no scope to change anything that is in the Act itself.

How to get involved

If you are interested in the participation request process or would like to be involved in any way in contributing your views then we'd be delighted to hear from you.

To note interest please enter your details and preferences for involvement at <https://www.surveymonkey.co.uk/r/BBTDVVR>

Or contact Andrew Paterson at SCDC direct on andrew.paterson@scdc.org.uk

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