

Response ID ANON-319P-B9XY-S

Submitted to **Community Empowerment (Scotland) Act 2015 – Participation Requests: Consultation on Draft Regulations**

Submitted on **2016-06-15 19:55:31**

Introduction

Are you responding as an individual or an organisation?

Organisation

What is your name or your organisation's name?

Name/orgname:

Scottish Community Development Centre

What is your email address?

Email:

andrew.paterson@scdc.org.uk

The Scottish Government generally seeks to publish responses to a consultation, in summary and where possible in detail. We would like your permission to publish:

Your response along with your full name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

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1 Should the use of a statutory form be required in the regulations? Please give reasons for your response.

Should the use of a statutory form be required in the regulations? Please give reasons for your response.:

Yes.

Our view is that public service authorities should be required to include form containing a standard set of key questions. These will help to create a clear, consistent and transparent process for participation requests. From the perspective of community organisations making a request, a statutory form should ensure that the process is straightforward and accessible.

Public service authorities should be able to add to the form in order to suit local circumstances and any unique requirements. However, it is important that additional requirements do not over-complicate the forms and make it more difficult for community bodies to submit requests. In addition, communities should not have to enter significantly different information if and when one agency signposts them to another. In the interests of accountability and monitoring, it will also be easier to compare requests to, and responses of, different bodies.

It is vital that forms are themselves clear and straightforward, and that they are accessible in terms of both being written in plain English and also being provided in different formats (e.g. available in different languages). In order that the form does not pre-empt or constrain participation requests, questions should be open enough to enable community organisations to set the agenda on their own terms as much as possible.

2 Should it be possible for a community body to put in a participation request without using a form? Please give reasons for your response.

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Yes

There should also be an option for community bodies with specific barriers, such as visual impairment, to submit their request by other means so long as they answer the questions contained in the form. For instance, a community body should be able to record and submit their request using audio/visual technology if it is more appropriate for them to answer the questions in this way. There should also be provision for community organisations to have the form (or otherwise) completed by someone advocating on their behalf. This would apply to community organisations who are not in a position to be able to complete the questions in the form themselves.

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

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

The form as it stands is straightforward, short and open enough so as not to restrict the nature of the request. Any additions, including our suggestions here, should be made carefully to avoid creating a further barrier to making a participation request.

The language used in q3 of the draft application form is unhelpful as “permitted”, although not inaccurate, has connotations of paternalism. The language used in the corresponding note would be more useful in this regard. We believe the intention of the Act the onus on public agencies who reject a participation request to have to provide a rationale for this, and the language of ‘permission’ works against this.

Likewise, we suggest adding an extra note to accompany q4 of the application form explaining that ‘expertise’ can be as simple as having lived experience of an issue. Otherwise, there is a risk that community organisations may be put off from making a request on the basis that they are unsure whether they have the required expertise, particularly if they take this to mean professional expertise or something similar.

The language of outcomes is potentially a further barrier for community organisations as many do not think of the work they do, or the aims they have, in terms of outcome improvement. The form is an ideal place to contain a simple explanation of what is meant by outcomes in the context of the Act or, at least, to signpost communities to where such information is available. At the same time, any explanation must be careful not to limit how outcomes can be interpreted as the breadth of scope for participation requests is a strength of this section of the Act.

A further suggestion for q4 is to ask the community body to provide details of what, if any, previous efforts it has made to participate in regard to the outcome. This could be as simple as stating who the group has been in contact with previously in regard to the outcome, and would allow the community body to provide some context to the request. It would also help to prevent the community body from being redirected to take part in a process which had previously failed to meet their needs. The community body should still have the option not to provide information it did not wish to share.

Finally, the form should also be an opportunity to allow community bodies to describe any support they would require to take part in an outcome improvement process. This could include issues to do with accessibility, language support and help understanding the process. The ability to raise such issues early on will reduce the need for the community body to request support later on, and mean that important information relating to the request and any support needs is kept in one consistent location.

4 Is 14 days a reasonable amount of time for additional public service authorities to respond? If not, please suggest an alternative timescale and explain reasons for the change.

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Yes

We feel 14 days is enough time to respond to the initial request, and that it is important to keep timescales tight, particularly when more than one public service authority is subject to the request.

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

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

In our view the pro-active promotion of participation requests is necessary to empower communities in the way that the Act intends. Without it, many community organisations and people in communities, particularly in disadvantaged communities, will not be aware of the opportunities presented by participation requests.

We recommend that the first requirement for public service authorities is to equip staff with the knowledge, permission and support to actively promote participation requests. There may be a temptation within some public service authorities to view participation requests as a burden and only in terms of something they have to react to. It should be the responsibility of public service authorities to ensure that staff see participation requests as an opportunity to work with communities to improve services and outcomes.

Secondly, participation requests should be promoted through as many channels as possible, but there should be a particular focus on making information on participation requests available in the ‘first points’ of contact that people have with them. This includes websites and other front-facing online channels, general information brochures, fliers, newsletters and other promotional material and information. In particular, information on participation requests should be available in webpages and other material relating to getting involved, contacting the authority and making complaints.

Thirdly, participation requests should be promoted as one way amongst others of participating. The exact place of participation requests in this broader ‘suite’ of participation channels will depend on the authority in question. In this regard, participation requests should be promoted as a method to explore when other participation methods have been unsuccessful or, alternatively, as a good ‘first step’ towards collaboratively addressing an issue. However they are viewed, information on making participation requests should be easily and widely available, and communities should not be put off from making them if this is their preferred way of proceeding.

In terms of content, promotion should cover the range of purposes of participation requests, it should refer clearly to the legislation (so that people know it has legislative force) and it should show people where to find more information. In terms of format, promotional material should be accessible to all, easy to understand, face-to-face where possible and make use of the means of communication used by different communities, from social media to places people and groups meet.

6 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?

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? :

Support should be started prior to any participation request. A focus of support should be on supporting community organisations to think about making

participation requests where this can assist them in furthering their aims and improving their communities. In this regard, support should be considered as part of the Community Participation Plans we proposed in our response to the draft guidance for the community planning element of the Act, as well as existing community capacity building support (as legislated for in the 2013 CLD Regulations). Those delivering such support will need to think about the skills and knowledge communities will require to take advantage of the new legislation. This includes support to think about how participation requests are relevant to the aims of existing community groups and helping groups to think about the things they need to have in place before making one. There should also be support available in terms of where and how to make a request and in terms of deciding whether or not participation requests are the best course of action to take. Such capacity building will be particularly important for disadvantaged communities, where there may be fewer skills, less confidence and less developed community organisation.

Public service authorities should create a single, clear, point of contact for community bodies seeking to make a participation request. The focus of this support should be on thinking in terms of outcomes, developing a request and completing and submitting forms. At this point, additional support needs may include interpretation support, advocacy and help making the request in a different, more suitable, format.

If requests are successful, support should be available to community bodies to enable them to effectively take part in the outcome improvement process. This will involve addressing physical, financial, language and other barriers to taking part as well as assistance understanding the process and what is expected.

In the course of our Scottish Government supported consultation around the guidance for participation requests, we have heard many calls for independent developmental support to be made available to community organisations seeking to make participation requests. We are not sure how this could be done through the regulations but, where possible, public service authorities should be encouraged to pool resources to fund a fully or semi-independent cross-agency support service for participation requests. The support could be located within existing independent bodies such as Third Sector Interfaces (TSIs) and other community anchor organisations. The regulations should place duties on public service authorities to work closely with local and national independent support agencies so that support around participation requests can be linked up and co-ordinated.

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

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The regulations should specify that socio-economically disadvantaged communities and communities with identified equality characteristics (including ethnic minorities, asylum seekers and refugees, LGBT and disability) should be provided with additional support. It will also be useful to specify communities experiencing multiple disadvantage (a combination of the above) as being particularly in need of additional support.

As stated above, disadvantaged communities are likely to have fewer skills, less confidence and less well-developed and connected community organisations. Without support in place for these communities, the function of participation requests will be undermined as many communities will not be in such a strong starting position to contribute effectively to improving outcomes. Moreover, the Act risks perpetuating inequality by restricting opportunities to well-resourced and high-capacity communities.

8 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

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

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

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

We believe that the decision notice is an opportunity to provide information on how the community body will be supported to participate in the outcome improvement process. This will be particularly relevant where a community body has specified support requirements in the form, in accordance with our suggestion in response to q3 that community bodies are asked this. In our view, it is imperative that support, and information on available support, is a priority throughout the participation request process, and decision notices are a crucial step in the process in which it will be helpful and reassuring for those in community bodies to know what support is available to them. On this note, information on where community bodies can seek external support will also be useful to include as part of decision notices.

Another important aspect of decision notices is where they are published. In line with our response to q5, decision notices should be published in the places that different groups of people interact with the public service authority. In addition to websites, this includes public spaces, newsletters, general information material such as brochures and fliers, social media platforms and information desks. This will ensure that as wide a range of people as possible affected by the decision are made aware of it.

10 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.

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.:

As with decision notices, and for the same reasons (see our response to q9), the publication of information relating to the outcome improvement process should specify how the community organisation will be supported to take part.

An additional requirement should be that, alongside this information, public service authorities state how learning will be captured, shared, and incorporated into future planning. In keeping with the reasoning behind our proposal for a Community Participation Plan, we view the establishment of trust and confidence as crucial to fulfilling the intention the Act to empower communities. Publishing details of how learning will be captured will increase transparency and accountability

and make it more likely that community bodies feel they have control over the process.

11 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.

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.:

We propose that the same additional information specified in our response to q10 should also be published in relation to the modified outcome improvement process.

12 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.

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.:

We agree with the requirements as outlined, and further suggest that this section includes a requirement to report on failures to agree, as in our view it is unlikely that outcome improvement processes will proceed without some tension and disagreement. Again, for reasons of transparency and trust, we see the reporting of failures to agree as important elements of the Act's intention to empower communities. Furthermore, a process that recognises these challenges will increase the likelihood of these disputes being resolved, as a greater focus will be put upon them.

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

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

We further propose that the annual progress reports on participation requests feed into the Community Participation Plans outlined in our response to the Community Planning draft guidance. This should be a relatively straightforward task, given that participation requests should form a core part of the participation activity of community planning partners. By mutually reinforcing one another these two reports will help to create a process of continuous learning and improvement ranging from the local level to the national level and back again. Reports for individual outcome improvement processes, which should clearly be used to inform annual progress reports on participation requests, must contain the views of communities. We also propose (in our response to the community planning draft guidance) that communities participate in the development of Community Participation Plans. Finally the three year report by Scottish Ministers into the progress of participation requests should be able to build on both local reporting for participation requests and our proposed Community Participation Plans to evaluate and improve the legislation through further regulation if necessary.

With regard to appeals, although we understand the intention behind not including an appeals mechanism to the current regulations, we suggest that the best way to build confidence in the participation request process, and the Act more widely, is to have system of appeals. This view has been clearly reflected in our consultation around participation requests around Scotland. A further suggestion, which could be incorporated into the statutory guidance, is to encourage public service authorities to consider establishing local appeals mechanisms.

Evaluation

6 Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Very satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Very satisfied

Please enter comments here.: