

To: Council

On: 20 April 2017

Report by: Director of Finance and Resources

Heading: Community Empowerment (Scotland) Act 2015 – Participation Requests

1. Summary

- 1.1 The part of the Community Empowerment (Scotland) Act 2015 relating to Participation Requests came into force on 1 April 2017.
 - 1.2 This report explains the implications of the implementation of this new legislation for the Council and outlines changes to governance arrangements that will be required to deal with requests
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2. Recommendations

- 2.1 It is recommended that the Council:
 - a) Notes that the Part of the Community Empowerment (Scotland) Act 2015 dealing with Participation Requests came into force on 1 April 2017;
 - b) Authorises the relevant service director in consultation with the relevant convener to make decisions regarding Participation Requests and to follow the statutory procedure for dealing with those requests;

- c) Agrees that the Head of Policy and Commissioning will be the Council's first point of contact for the receipt of Participation Requests and for dealing with queries regarding the Council's approach to Participation Requests; and
 - d) Authorises the Head of Corporate Governance to make the necessary changes to the Council's Scheme of Delegated Functions and Board remits to reflect the changes introduced by this report.
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3. Background

- 3.1 The Scottish Government is bringing the various parts of the Community Empowerment (Scotland) Act 2015 into force in stages. The Community Planning provisions came into force in December 2016 and the asset transfer provisions came into force in January 2017.
- 3.2 The next part of the Act to be brought into force is Part 3 which deals with Participation Requests.
- 3.3 Participation Requests are a new process which allows a community body to enter into dialogue with public authorities such as the Council about local issues and local services on their terms and without having to wait until being invited to participate by the Council.
- 3.4 Where a community body believes it could help to improve an outcome it will be able to request that the Council takes part in a process to improve that outcome.
- 3.5 The Council needs to put in place arrangements to deal with these requests. Those arrangements must comply with Part 3 of the 2015 Act which sets out the process for how participation requests work.

The basic process is:

- A community body puts forward a Participation Request to the Council asking the Council to agree that the community body may take part in a process that will improve the outcome set out by the community body in the request.
- The Council must agree to the request and set up a process unless there are reasonable grounds for refusal.

- At the end of the process the Council must publish a report on whether the outcomes were improved and how the community body contributed to that improvement

3.6 For the purposes of this part of the Act, a community body does not have to be incorporated, provided it does have a written constitution which includes a definition of the community to which it relates. Community councils are also specifically included as the type of community body that can make Participation Requests and the Scottish Ministers have powers to designate other bodies to be covered by the provisions.

3.7 A Participation Request must be made using the prescribed form and must include the following information:-

- An outcome that results from, or is contributed to by virtue of, the provision of a service provided to the public by or on behalf of the authority.
- The reasons why the community body considers it should participate in the outcome improvement process.
- Details of any knowledge, expertise and experience the community body has in relation to the specified outcome; and
- An explanation of the improvement in the specified outcome which the community participation body anticipates may arise as a result of its participation in the process.

The Participation Request may be made to more than one public body.

3.8 The Act requires the Council to decide whether to agree to or refuse a Participation Request and states that the Council must agree to the request unless there are reasonable grounds for refusing it.

3.9 Regulations have already been published setting out the procedure for dealing with requests.

In most cases, decisions must be made within 30 working days from the date on which the last item of information to validate the request is received by the Council.

In these circumstances, it is proposed that the decision on whether or not to approve a Participation Request is delegated to the relevant director who has responsibility for the service area covered by the request in consultation with the convener of the relevant Board.

If approved, this would require a change to the Councils Scheme of Delegations.

3.10 Although the Act does not include a provision for an appeal procedure in the event of a request being refused, there is a provision enabling the Scottish Ministers to make regulations to bring an appeal procedure into force. The Scottish Government have announced that they do not intend to bring forward regulations in the near future but may review the position once Participation Requests have been available for a year.

3.11 The Scottish Government has also issued guidance on Participation Requests.

One of the key elements of existing Regulations which is emphasised in the guidance is the obligation on public authorities to promote the use of Participation Requests by publishing on a website or by other means, including social media, information explaining how a Participation Request may be made.

The guidance provides that in order to promote and raise awareness of participation requests, public authorities should also consider the following:-

- That a “first point of contact” is created or designated. This member of staff or team should understand the scope of the Act, particularly Part 3, and should have an understanding of community engagement and participation generally.
- A variety of media outlets should be used to promote and raise awareness of participation requests.
- Effort should be made to ensure that people who face additional barriers to accessing information are reached.
- Promotion should go beyond established community organisations. The wider community should be made aware of participation requests and what opportunities they create. Disadvantaged and marginalised groups within a community may not be represented by, or connected to, existing community organisation.

3.12 It is proposed that the Head of Policy and Commissioning in the chief executive’s service is identified as the Council’s first point of contact for receipt of Participation Requests and for dealing with any queries regarding the Council’s approach to Participation requests.

Implications of the Report

1. **Financial** – There are no direct financial consequences arising from the implementation of the recommendations in this report

2. **HR & Organisational Development – None**

3. **Community Planning –**

Empowering Communities- There is a link between community empowerment and community planning. The legislation referred to in this report is designed to encourage greater participation by communities in the decisions that affect them.

4. **Legal –** The report concerns the implementation by the Council of new legislation -

5. **Property/Assets - None -.**

6. **Information Technology - None -**

7. **Equality & Human Rights -**

(a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety - None**

9. **Procurement - None**

10. **Risk - None**

11. **Privacy Impact - None -**

List of Background Papers

(a) Background Paper 1 – Guidance on Participation Requests published by the Scottish Government.

The foregoing background paper will be retained within Legal and Democratic Services for inspection by the public for the prescribed period of four years from the date of the meeting. The contact officer within the service is Ken Graham, Head of Corporate Governance ext 7360

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