

Response ID ANON-319P-B9KR-5

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

Submitted on **2016-06-15 14:51:53**

Introduction

Are you responding as an individual or an organisation?

Organisation

What is your name or your organisation's name?

Name/orgname:

The Coalition for Racial Equality and Rights

What is your email address?

Email:

rebecca@crer.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 a statutory form should be required.

CRER believes that without this form, it may be easier for public service authorities to refuse participation requests if they feel community bodies have not provided adequate information about the request. A statutory form places all community bodies on an equal footing, including those less experienced working with public bodies, and ensures that all parties involved know what information is required to fairly consider a participation request.

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.

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

No it should not be possible.

CRER believes not requiring a statutory form will increase the likelihood of refusals. Although some community bodies may not like forms, it will ensure that necessary information is given in a standardized way that makes evaluation more straightforward and equal. If not, it will be easier for public service authorities to not assess applications adequately and fairly.

Assistance in completing the form should be made available for any group which requires it.

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?:

CRER believes that, while the questions on the form are appropriate, the form itself (particularly the application form notes) contain a significant amount of jargon that does not provide clarification community bodies may need. Further and clearer explanation is required surrounding terms such as outcomes, provision of service, public service authorities, and community body.

For the form to work, it must be user friendly. Community bodies should also have the option to attach additional evidence for questions relating to their knowledge, expertise, and experience and why they should be able to participate in an outcome improvement process, as reports and evaluations may already clearly explain this.

Most importantly, the form notes need to better explain the process and definitions, as some community bodies may not know to look at the guidance or legislation. A clear, concise explanation is needed on the form, along with user-friendly definitions of key terms used throughout the process. These definitions could be incorporated into the questions themselves, rather than the explanatory notes, if this is deemed useful.

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.

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.:

CRER believes additional public service authorities may need three weeks (21 days) to respond.

From our personal experience with Freedom of Information requests, we know that public bodies do miss deadlines and we believe thorough evaluation of a participation request will require more time than a FOI, as it is more complex and requires internal negotiations and planning.

Therefore, we believe giving additional public service authorities three weeks instead of two will allow bodies to thoughtfully evaluate applications and conduct the necessary planning and research needed to adequately consider 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?:

CRER believes public service authorities should engage with community bodies directly, both to raise awareness of the opportunity to make a participation request and to explain the process to groups who may be unfamiliar with Community Empowerment (Scotland) Act or who have not directly engaged with a public service authority before.

We also believe that public service authorities should be required to have a standardised text on their website which sets out comprehensive information on participation requests, explained using a rights-based approach, that makes the process accessible and understandable to the general public.

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? :

Each public service authorities should designated a post to be the main point of contact for community bodies who want to make a participation request. This contact should be displayed on the authority's website (along with information about participation requests) and should be promoted.

Authorities should also have to make provision for advice and guidance to be made available upon request. This could be administered through an authority's advice service or community engagement team, for example. If not, the authority should be required to fund someone external to carry out this engagement work. Whether conducted internally or externally, guidance and support should be provided to any group who asks and the participation request process should be explained accessibly.

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

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

Additional support should be made available where a community body faces a disadvantage. CRER believes the language used for positive action in the Equality Act 2010 regarding conditions for additional support could provide a good basis for the regulations.

If the regulations that specify additional support were based on the Act, it could be argued that public authorities should be required to provide additional support to community bodies where:

A. The public authority could be reasonably expected to think that the members of the community participation body:

- Suffer a disadvantage which impacts their ability to make a participation request
- Require specific assistance, adjustments or support to enable them to make a request, and/or
- Have a disproportionately low level of engagement with the public authority and could benefit from support to engage and

B. The additional support offered is intended to:

- meet the specific needs of the members of the community participation body
- enable or encourage the members of the community participation body to overcome or minimise any disadvantage, and/or
- enable or encourage the members of the community participation body to engage with the public authority

In all cases, providing additional support must be about addressing disadvantage facing a group or increasing a group's ability to participate. This must be required rather than optional.

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?

No

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

CRER believes public service authorities should be given six weeks to respond, if the time for additional public service authorities to respond is three weeks. This will, in our opinion, ensure proper consideration and planning is given to each request.

If the time is shorter, there is a danger that participation requests will be refused because public service authorities have not had enough time to properly consider the request and plan.

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.:

If the decision is a refusal, CRER believes that the refusal must explain the reasons for this in reference to each factor listed in Section 24 (3) of the Community Empowerment Act, unless the question qualified for an automatic refusal, in which case this must be clearly explained.

The refusal notice should also include a section in which the relevant public service authority details how it will mitigate the relevant issues of inequality raised by the community body in the participation request.

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.:

CRER believes that a decision notice which agrees to the participation request should contain a signed statement with official signatures from both the community body and the public service authority that states that they agree to carry out the engagement process in the manner specified in the notice.

With this official signatures on the document, it will be more difficult for the parties involved to not fulfil the terms of the decision notice and ensures that discussion and agreement between both bodies about the actual content of the decision notice was genuine and thorough.

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.:

CRER believes, that, in line with our response to Question 10, official signatures should be required from all parties involved to show that that all partners were involved and are in agreement regarding 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.:

Community bodies should have to provide a signed statement of their view of the outcome improvement process which must be included in the final report published by the public service authority. This ensures that the community body can put forward its own opinion and not have its views altered by the public service authority in the final report.

Furthermore, rather than the report only containing the number of requests refused and agreed, each report should provide a comprehensive overview of all participation request activities, including details about each request made, including which community body made it, what the request pertained to, whether it was agreed to or rejected, and what the outcome was if the request was agreed to.

Numbers will not tell the complete story; details about the groups making requests are needed to identify if any particular group or particular service or policy matter is subject to an inordinate amount of refusals.

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?:

CRER believes that consultation should also occur on the guidance surrounding participation requests and, if possible, the guidance should be co-produced with community bodies and public service authorities.

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?:

Slightly 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.: