



From mountain to sea

PARTICIPATION REQUESTS

Guidance for Community Participation Bodies

Adapted from Scottish Government Draft Participation Request Guidance - <http://www.gov.scot/Topics/People/engage/ParticipationRequests/DraftParticipationRequestGuidance?refresh=0.7755555568628374>

1. Getting Started

What are Participation Requests and what are they for?

Part three of The Community Empowerment (Scotland) Act 2015 (the Act) implemented on 1 April 2017 introduced a new means by which community groups can request to have involvement in, and influence over, decisions and services that affect communities.

This involvement is described as an outcome improvement process and is initiated by a participation request. The Act states that a community participation body may make a request to a public service authority to request to participate in an outcome improvement process.

The Act goes on to define what 'community participation bodies' are and what 'public service authorities' are as well as describing what an outcome improvement process is. Aberdeenshire Council is a 'public service authority' as defined by the Act.

This guidance deals only with the procedures for participation requests under the Community Empowerment Act, but this is not the only way for communities to engage and participate with Aberdeenshire Council. We will continue to develop and undertake good quality community engagement and participation processes. Participation Requests are an opportunity for communities to establish formal dialogue with the council in order to improve outcomes.

Participation Requests are not intended to be an extension or replacement to the council's complaints process - more information about our feedback

arrangements are available on the council's website - <http://www.aberdeenshire.gov.uk/contact-us/have-your-say/>

There are a range of possible uses of Participation Requests which can be broadly divided into four categories as follows:

- To help people **start a dialogue** about something that matters to their community, through highlighting needs, issues or opportunities for improvement.
 - *Example: a group of fathers/grandads have identified a lack of opportunities for support for men and their children within their local area. They are not a constituted group, but have informally come together to provide play activities for their children and have established an informal network. They have identified that there are many men living in the area who are unemployed and who care for their children/grandchildren, and that they struggle to access free or affordable play activities and support. The group want to improve access to existing parents' groups for men locally, and to work with service providers to establish a father's group. They have made a participation request to their **health board** around positive parenting.*

- To help people have their voice heard in policy and service development, through **contributing to decision-making processes**.
 - *Example: A tenants' organisation which represents a neighbourhood wishes to influence how decisions are made in relation to community safety. They have identified a community safety issue which is specific to their neighbourhood, but which they believe has not been prioritised within wider community safety planning. They feel that their voices have not been heard within the process, and have made a participation request to their **local authority** to be involved in community safety planning structures.*

- To help people to participate in the design, delivery, monitoring or review of service provision, through contributing to **service change** or improvement.
 - *Example: A network of refugees and asylum seekers from across Scotland have carried out a survey which shows a range of experiences in relation to accessing English language courses. They wish to work with statutory providers to ensure that all refugees and asylum seekers have equal opportunity to access English language tuition, and in particular to address the*

*issue of cost and timing/availability of transport which was reported as barrier for those living in more rural communities. They have made a participation request to a **regional transport** provider around equality of access to transport.*

- *Example: A local Development Trust wants to take over the running of a local care service and makes a participation request to the **local authority** to start a dialogue on the issue. People in the community feel strongly that there is a need for such a care service to be delivered locally as it enables many older people to continue to live in their own homes.*
- To help people challenge decisions and **seek support for alternatives** which improve outcomes.
 - *Example: A community development trust is seeking to challenge a decision about a woodland area which is well used by the local community for outdoor activities such as biking, walking and woodland education. The woodland is owned and managed privately and the owner has tried to restrict access to the site claiming that this is due to the discovery of a protected species. The community development trust has made a participation request to the National Park Authority to become involved in finding a suitable resolution.*

2. First Steps

It is important that community participation bodies and Aberdeenshire Council engage in dialogue at an early stage and always prior to any formal participation request being submitted. This will help to ensure that existing processes are used appropriately and that any Participation Request that is submitted is well thought-out, appropriate and is focused on improving outcomes.

Community participation bodies should have thought about the purpose of their request and how they want to proceed before entering into any formal process. The following checklist for community participation bodies may help to inform this.

- | |
|--|
| <ul style="list-style-type: none">● What are your objectives - what is it that you want to improve for your community?● Who are your community? |
|--|

- Do you have support for your ideas within your community?
- Do you have support for these ideas across the wider community?
- Have you spoken to the relevant public body already?

The community participation body is encouraged to discuss their ideas with Aberdeenshire Council at the earliest opportunity. It could be that we are able to work together without the need for a Participation Request to be made. If an informal discussion about a possible request would be helpful, please contact the appropriate local area manager (see Contact Us below). However, a community participation body has the right to make a Participation Request to open up a dialogue and take part in a process to improve the outcome set out by the community participation body.

3. Making A Request

Eligibility to Make a Request

To make a Participation Request, the community organisation needs to be a 'community participation body'. This is defined in section 20 of the Act. It can be either a community controlled body (defined in section 19), a community council, a community body without a written constitution (set out in section 20(4)) or a body designated by Scottish Ministers.

A community organisation does not need to be defined as a 'community controlled body' to be able to make a Participation Request. However, it will need to meet similar requirements as a community controlled body. Please see Appendix 1 for further information about the requirements for a community controlled body.

Community Bodies without a written constitution

A community participation body could also be a more loosely associated group of people. Under section 20(4) of the Act it explains that the community group must have similar features to that provided by a community controlled body as set out above but has no written constitution.

SCVO has helpful advice on its website <http://www.scvo.org.uk/setting-up-a-charity/> to help a community group decide what sort of organisation they might want to be, including whether they should become a charity.

[Aberdeenshire Voluntary Action](#) can give advice to groups on Charitable Status, and the process of becoming a Registered Scottish Charity through application to OSCR, the Office of the Scottish Charity Regulator.

Communities of interest

The legislation on Participation Requests does not define what a 'community' can be. It simply requires a community participation body to define the community it relates to, ensure the body is open to and controlled by members of that community, and uses its assets to benefit that community. Whether an organisation is eligible to make a Participation Request depends on their meeting the requirements under the Act, not on what community it represents.

A community can be any group of people who feel they have something in common. In many cases, it is that they live in the same area. However, it can also be that they share an interest or characteristic. Communities of interest could include faith groups, ethnic or cultural groups, people affected by a particular illness or disability, sports clubs, conservation groups, clan and heritage associations, etc.

If the community is a community of interest, the community participation body might want to consider engaging with local people in an area that could be impacted by the outcome improvement process, and think about how the proposals may affect them.

Community Councils

Community councils are able to make a Participation Request under the Act. When making a request it would be useful for the community council to supply an agreed Scheme of Establishment with Aberdeenshire Council and have a written constitution. The community council should engage with local people in the area that could be impacted by the outcome improvement process, and think about how the proposals may affect them.

Designation

Scottish Ministers can designate a body to be a community participation body. They will do this by making an order. Ministers can either designate an individual body, or could designate a class of bodies, if they decided in future that all organisations of a particular type should be able to make Participation Requests.

The criteria for community controlled bodies are there to make sure the organisation truly represents the members of its community and is open and inclusive. It must also be clear that the organisation uses its assets and

resources for the benefit of that community as a whole and not, for example, for the private benefit of those individuals who are members of the organisation. Ministers will normally only designate a body (or a class of bodies) if it works in a way similar to a community-controlled body, and there is a good reason why it is not able to meet the requirements in the Act. An example could be a charitable trust which cannot change who is on its Board. For more information about designation please see the Scottish Government's website - <http://www.gov.scot/Topics/People/engage/ParticipationRequests>

Request Criteria

When putting forward the participation request, the community participation body is required to provide the information as required in section 22 of the Act. You must:

- Specify 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.
- Set out the reasons why the community participation body considers it should participate in the outcome improvement process.
- Provide details of any knowledge, expertise or experience the community participation body has in relation to the specified outcome.
- Provide an explanation of the improvement in the specified outcome which the community participation body anticipates may arise as a result of its participation.

In terms of regulation 4 of the Procedure Regulations, a participation request is not treated as having been made until all the required information is received by Aberdeenshire Council. Community participation bodies should use our [Participation Request Form](#) to make their request as this will help ensure all relevant information is provided. If a community participation body is having difficulty using the form or would like support please contact us using the information at the end of this guidance.

Outcomes

The Act sets out that the community participation body must specify an outcome that results from the provision of a service provided to the public by Aberdeenshire Council. The Act does not define what an outcome is. Typically, outcomes are the changes, benefits, learning or other effects that result from what the public service authority makes, offers or provides. This is often compared to outputs which are the products, services or facilities that result from an organisation's activities. To identify an outcome it is often useful

to ask yourself “what difference will this make?” The answer you get to that question will help to form your outcome.

The identified outcome does not have to match the stated outcomes of Aberdeenshire Council. However, it must be an outcome that results from a service we provide.

Outcomes can occur at a range of different levels. The following examples are outcomes resulting from the participation request scenarios provided in section 1 Getting Started (above).

- Example of a group of fathers/grandads making a participation request to their health board around parenting. **Outcome – improved health and life chances for children.**
- Example of a tenants’ organisation making a participation request to their local authority to be involved in community planning structures. **Outcome – improved community safety.**
- Example of a network of refugees and asylum seekers making a participation request to a regional transport provider around equality of access to transport. **Outcome – increased access of refugees and asylum seekers to English language courses.**
- Example of a Development Trust making a participation request to a local authority to take over the running of a day care service for older people.
Outcome – people are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community
- Example of a community development trust making a participation request to the National Park Authority around improving access to outdoor activities. **Outcome – improved health and wellbeing.**

More information about outcomes is available in the Scottish Community Development Centre Summary Guidance for Participation Requests.

<https://static1.squarespace.com/static/5943c23a440243c1fa28585f/t/5a744dd8652deaae43b4bf4d/1517571565985/PR+Summary+Guidance.pdf>

Participation in the Process

The community participation body will need to set out the reasons why they should participate in an outcome improvement process. This is simply to allow the community participation body to set out the benefits that they will bring as a community led organisation.

Knowledge, expertise and experience

The community participation body should set out their knowledge, expertise and experience in relation to the outcome. This is a chance for the community participation body to provide any information about their understanding and direct (or lived) experience in relation to the outcome. It is not about being 'expert' in an academic and theoretical sense but how they can use their own know-how and awareness of the improvements that can be made.

The improvement in the outcome

The community participation body needs to provide an explanation of the improvement in the outcome which the community body believes may arise as a result of its participation in an outcome improvement process. This will obviously depend on the outcome itself and how the community participation body views its role and the knowledge, expertise and experience they can bring to the process.

Community Support

It would be helpful for the community participation body to describe the support they have for the participation request within the community which the organisation represents i.e. the community defined in the community participation body's constitution or other documentation.

Depending on the nature of the community, some community bodies include a large proportion of the members of that community, but many are made up of a relatively small core of enthusiastic people within a much larger community. The council needs to know that the community participation body have engaged with the community as a whole, and that the proposals have broad support.

The community participation body should start by explaining who your community is, the total number of people in the community, and how many of them are members of your organisation. If the community participation body represents a community of interest, they might only be able to estimate the total size of the community outside your organisation, but where possible they should provide as much information as they can, for example from the census, other surveys or information from national representative bodies.

To demonstrate the support for the proposals, the community participation body can use the results from whatever activity they have carried out to find out people's views. The community participation body should give the date of the activity, say how many people took part and how many supported the proposals.

The National Standards for Community Engagement are available at www.voicescotland.org.uk

The National Standards for Community Engagement are good-practice principles designed to improve and guide the process of community engagement.

As well as support from the community which the organisation represents, it may also be helpful to refer to support from other communities.

There are often differences of opinion within communities and if concerns are raised during any engagement with the community and others, the community participation body should try to address them and show how they have done this. If the community participation body is aware of other community bodies who are interested in the same outcome then they should try to work together and see if it is possible to agree a single request.

Other Information

This section provides an opportunity for the community participation body to include any other information it believes might be useful in the assessment of the Participation Request. This could include information on any evidence that the community body has in relation to the proposed outcome improvement or describe the support the community participation body has within the community.

Community Asset Transfer

Sometimes a community participation body may wish to take over a building or land and improve the services which are delivered by Aberdeenshire Council from those premises. The transfer of ownership of the building or land could be addressed by an asset transfer request while the Participation Request would allow the community participation body to start to talk about improving the outcome of the services.

We do not recommend using both types of request together.

- If the community body wants to take over running a service which is tied to the particular premises, and does not want to use the premises for any other purpose, this can be addressed through a Participation Request. Usually this would apply to services which will be delivered under a contract or agreement with the relevant authority. A lease or other arrangement in relation to the premises can be negotiated as part of the agreement to provide the service.

- If the community body wants to take control of an asset in order to deliver services on its own terms or use the property for other purposes, this should normally be addressed through an asset transfer request.
- An asset transfer request can be accompanied by negotiations for the public authority to contract with the community body to continue to provide a service, as a source of income.

Aberdeenshire Council has a Community Asset Transfer Policy and process – more information is available on the council’s website -

<http://www.aberdeenshire.gov.uk/communities-and-events/community-asset-transfer/community-asset-transfer/>

4. Decision Process

When the request is received, we will check it contains all the required information, and that the organisation qualifies as a community participation body.

If the organisation is not eligible to make the request it has submitted, technically it is not a participation request and we are not required to take any further action. As a matter of good practice, we will reply explaining why we consider the organisation or group is not eligible.

If the organisation is eligible but the request is not complete, we are required to send a notice explaining what is missing. We will not start processing the request until we have been provided with all the required information, as set out earlier in this guidance.

Power to decline certain participation requests

Section 27 of the Act allows a public service authority to choose not to consider a request which is the same or very similar to a previous request. This applies if the new request relates to matters which are the same or very similar to a request made in the previous two years. It does not matter if the new request is made by the same body or a different one.

Where a repeat request is declined, we will write to the community participation body to advise them of the situation and the reason for declining the request.

Acknowledgement

Once we are satisfied that all the required information has been provided, we will send the community participation body an acknowledgement. This will include the following information:

- The validation date for the request – this is the date on which all the required information has been received by Aberdeenshire Council. This is the date from which other time limits will be calculated.
- The time period for us to notify you of our decision – this is 30 working days from the validation date, unless additional public service authorities are involved.

Making the Decision

When a valid Participation Request is received, it will be considered by the area manager in conjunction with other appropriate officers. It is expected that requests will be agreed unless there are reasonable grounds for refusal.

When considering the request we will consider whether agreeing to it would be likely to promote or improve:

- Economic development – this could cover creating new job opportunities or training opportunities, bringing more custom to existing businesses, supporting new businesses, etc.
- Regeneration – this is about making your area a better place to live and work, for example providing new housing, bringing empty buildings or unused land back into use, increasing access to services and social and leisure facilities, improving transport, etc.
- Public health – a wide range of activities can help people lead healthier lives and support people living with long-term conditions or mental health issues, as well as direct provision of care services or improving access to healthcare.
- Social wellbeing – this covers all sorts of activities that bring people together, creating a stronger community spirit, supporting learning, cultural activities, reducing crime, etc.
- Environmental wellbeing – this could include activities to improve the natural environment both locally and more widely, ranging from creating a community garden or managing local woodland to recycling or renewable energy projects.
- Reduce inequalities of outcome which result from socio-economic disadvantage – this refers to tackling poverty and the other issues that often come with it, such as health problems, low quality housing and lack of access to services and employment. If improving the outcome will particularly help people on low incomes or address these kinds of issues, you should highlight it.

In addition we will also consider whether agreeing to the request would be likely to:

- Lead to an increase in participation in the outcome improvement process by persons who experience socio-economic disadvantage.
- Lead to an increase in participation by persons who experience socio-economic disadvantage in the design or delivery of a public service as relates to the outcome.

Decision Notice

Once we have made a decision, we will issue a decision notice setting out our decision and, if we refuse the request, the reasons for the refusal. We will do this within 30 working days from the validation date or 45 working days if more than one public service authority is involved or a longer period if agreed with the community participation body.

5. Outcome Improvement Process

Once a decision notice has been given agreeing to a Participation Request, an outcome improvement process must be discussed and agreed.

An outcome improvement process is an agreement between the council and the community participation body to have a formal conversation or dialogue about how the outcome identified in the Participation Request could be improved. As part of the dialogue there may be discussions about service design and delivery and the council will decide if there will be any changes to existing service delivery arrangements following the outcome improvement process.

If there is already an established outcome improvement process the decision notice will:

- Describe the operation of the outcome improvement process.
- Specify what stage it has already reached.
- Set out how the community participation body will participate in the process.

- Identify others that are part of the process and how they will participate.

This will allow a community participation body to join a relevant outcome improvement process and participate in that process.

If an outcome improvement process has not been established then the decision notice will:

- Describe how the outcome improvement process will operate.
- Explain how the community participation body is expected to participate.
- Describe how any other persons are expected to participate in the process.

It explains that the community participation body can, within 28 days, propose changes to the outcome improvement process to the public service authority who must take account of any proposals.

Aberdeenshire Council must publish on a website (or by other electronic means) information about the proposed outcome improvement process.

We must also publish:

- The names of the community participation bodies and public service authorities which are involved in the outcome improvement process.
- The outcome to which the outcome improvement process relates.
- How the outcome improvement process is to operate.
- The timescale for the completion of the outcome improvement process.

The outcome improvement process must start within 90 calendar days of notification of the decision notice.

Contact Us

For a pre Participation Request discussion contact the local area manager, details below. Area maps for all areas below are available on the Aberdeenshire Council website at www.aberdeenshire.gov.uk

- **Banff and Buchan Area Office**
Town House
34 Low Street
Banff
AB45 1AN
email: banffandbuchanamo@aberdeenshire.gov.uk
- **Buchan Area Office**
Buchan House, St Peter Street
Peterhead
AB42 1QF
email: buchan@aberdeenshire.gov.uk
- **Formartine Area Office**
29 Bridge Street
Ellon
AB41 9AA
email: formartine@aberdeenshire.gov.uk
- **Garioch Area Office**
Gordon House
Blackhall Road
Inverurie
AB51 3WB
email: garioch@aberdeenshire.gov.uk
- **Kincardine and Mearns Area Office**
Viewmount
Arduthie Road
Stonehaven
AB39 2DQ
email: Kincardine.mearns@aberdeenshire.gov.uk
- **Marr Area Office**
School Road
Alford
AB33 8TY
email: marr@aberdeenshire.gov.uk

Support with developing a Participation Request, engaging with the local community or completing the form is available through:

Aberdeenshire Council Community Learning and Development Service -
cld@aberdeenshire.gov.uk

See also the Aberdeenshire website -
<https://www.aberdeenshire.gov.uk/communities-and-events/community-centres/cld/>

Rural Development Partnerships:

Rural Development Partnerships can:

- Support and encourage community led projects, particularly those with economic development outcomes.
- Facilitate engagement and involvement between communities and statutory agencies.
- Building capacity for groups and individuals involved in projects, mentoring and assisting groups to source funding.

Banffshire Partnership Limited
The Old School, Boyndie,
Banff AB45 2JT
T: 01261 843598
F: 01261 843598
E: bpl.contact@tiscali.co.uk
www.banffshirepartners.co.uk

Buchan Development Partnership
Area Office, Nethermuir Road,
Maud, Peterhead AB42 4ND
T: 01771 613584
E: bdp@scotmail.net
<https://www.bdp.scot/>

Formartine Partnership
29 Bridge Street,
Ellon AB41 9AA
T: 01358 720584
E: rodgunson@formartinepartnership.org.uk
www.formartinepartnership.org.uk

Garioch Partnership

c/o Wyness Hall,
Jackson Street,
Inverurie
AB51 3QB
T: 01467 628801
E: dawn@gariochpartnership.org.uk
www.gariochpartnership.org.uk

Kincardineshire Development Partnership
c/o Crossroads,
44-46 Barclay Street,
Stonehaven
AB39 2FX
T: 01569 763246
E: office@kincardineshiredp.org
<http://www.kdp.scot/>

Marr Area Partnership
Gellan Cottage, Coull,
Aboyne AB34 5JU
T: 013398 87577
E: enquiry@marrareapartnership.org.uk

www.marrareapartnership.org.uk

Aberdeenshire Voluntary Action (AVA)

Support offered by AVA includes:

- Advising groups where to look for new sources of funding, in order to grow and take on new activities - or simply to survive!
- Helping groups put together more focused and effective funding applications to Charitable and Statutory Sector funders.
- Advising groups on how to attract volunteers and volunteer committee members.
- Advising groups on Charitable Status, and the process of becoming a Registered Scottish Charity through application to OSCR, the Office of the Scottish Charity Regulator. You can visit their website at: www.oscr.org.uk

Aberdeenshire Voluntary Action
15a High Street
Inverurie
AB51 3QA
T: 03718 110008
E: enquiries@avashire.org.uk

Requirements for a community controlled body

A community controlled body does not have to be incorporated, but must have a written constitution.

A constitution is a document which sets out what a group is for and how it is organised. It lets everyone know who can join the group, what the rules are and how decisions will be made. A group will usually need to have a constitution if they want to open a bank account or apply for grants.

Having a written constitution is a simple way of showing that the community participation body is open, inclusive and representative and making sure that all members know how the body will operate.

If a group is incorporated it is legally a single body rather than just a group of individuals. This means the body can enter into contracts which continue even if the membership changes. Being incorporated may protect the members from liabilities, otherwise they could be required to pay for any debts or damages incurred by the body.

To qualify as a community controlled body, the constitution, Articles of Association or registered rules must under section 19 include the following things:

- (a) a definition of the community to which the body relates.

The group may represent the community in a particular area or people who have a common interest or characteristic. (See below for more on “communities of interest”). The definition should be clear enough to show whether a person is a member of the community or not.

- (b) provision that membership of the body is open to any member of that community

Membership of the body must be open to anyone who is a member of the defined community. There must not be any additional requirements.

It has been queried whether membership is open to all if membership fees are charged. The legislation does not prevent charging fees to cover the costs of your activities, but generally they should be set at a level that is affordable for members of the community. Membership fees are more common for communities of interest based around a common activity, for example for a sports club to cover insurance, hall hire and registration with the sport’s governing body. Alternatively these costs could be covered by fundraising.

(c) provision that the majority of the members of the body is to consist of members of that community

People (and organisations) who are not members of the defined community may be allowed to join the body, but the governing documents must require that those who are members of the community must always be in the majority.

(d) provision that the members of the body who consist of members of that community have control of the body

Having “control of the body” means that the members of the community are in charge of the decisions made by the body. This may be arranged by providing that only community members can vote at General Meetings, a majority of the Board must be made up of community members and the Chair (and Vice-Chair, if you have one) must be community members, if they have a casting vote in board meetings.

(e) a statement of the body's aims and purposes, including the promotion of a benefit for that community

The aims and purposes may include activity that goes wider than the defined community, such as raising money for charity, promoting their interest to other people or sharing experience with communities in other areas. But at least one of the purposes of the body must clearly be for the benefit of the community they represent.

(f) provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

Any money or property the body has, after covering its running costs, must be used to benefit the community as a whole. Bodies incorporated as co-operatives, which distribute their profits or dividends to members of the body, are not eligible to make participation requests.

Whatever type of organisation a group chooses to be, to qualify as a “community controlled body” it must have the provisions outlined above in its constitution or other governing documents (Articles of Association for a company; registered rules for a BenCom). If the community group are already an established group, they will need to check the existing constitution or governing documents to see if they include all the required points.

If you need a copy of this document in an alternative language or in large print or in Braille please telephone 01467538029

Polish	Jeśli chcesz otrzymać kopię tego dokumentu w innym języku, napisanego dużą czcionką lub w języku Braille'a, proszę zadzwonić pod numer 01467538029
Latvian	Ja Jums ir nepieciešama šī dokumenta kopija citā valodā, lielformāta drukā vai braila rakstā, lūdzu, zvaniet pa tālruni: 01467538029.
Russian	Если Вы нуждаетесь в копии этого документа на другом языке, укрупненным шрифтом или шрифтом Брайля, просим Вас позвонить по телефону 01467538029
Lithuanian	Prašau skambinkite tel. 01467538029, jei jums reikalinga į jūsų kalbą išversto dokumento kopija ar pageidaujate didelėmis raidėmis ar Brailiu.

Revision Date	Summary of Changes
13/06/18	Contact information updated
19/03/19	Broken links fixed
01/05/19	Information added