

## West Lothian Council – Participation Requests Toolkit

This Toolkit is designed to provide guidance in relation to participation requests made to West Lothian Council.

**We would strongly encourage community bodies to consider this Toolkit and to discuss proposals with council officers before making a formal request.** This will allow community groups to make sure that they are a valid 'Community Participation Body', ensure they are applying to the right public body, find out if a joint application may be better, find out if joining existing processes may be more suitable and discuss any support and capacity needs.

The council's Community Planning and Regeneration team will be the point of contact for all requests to West Lothian Council. The team can be contacted at

E: [community.planning@westlothian.gov.uk](mailto:community.planning@westlothian.gov.uk), T: 01506 81086, to discuss any potential request.

### Background

The **Community Empowerment (Scotland) Act 2015** is a new piece of legislation that gives communities additional rights, through having more say in how public services are planned and provided; owning or leasing land, assets and estates; and becoming involved in improving the outcomes of services.

Part 3 of the Act (**participation requests**) went live on 1 April 2017. Participation requests provide a new way for community groups to get involved in how the council and other public services are planned and delivered. A participation request can be made to:

- Help people **start a dialogue** about something that matters to their community;
- Help people have their voice heard in policy and service development through **contributing to decision-making processes**;
- Help people to participate in the design, delivery, monitoring or review of service provision, through contributing to **service change** or improvement;
- To help people challenge decisions and **seek support for alternatives** which improve outcomes.

The Act identifies the 'Public Service Authorities' that requests can be made to. In West Lothian these are:

- West Lothian Council
- NHS Lothian
- West Lothian College
- Scotland's Rural College (Oatridge Campus)
- Scottish Enterprise
- Police Scotland
- Scottish Fire & Rescue Service
- Scottish Natural Heritage
- SEStran
- Scottish Environment Protection Agency (SEPA)

## **Who can make a participation request?**

To make a participation request, the community organisation needs to be a '**community participation body**' (CPB) and meet specific criteria outlined in the Act. They can be either a 'community controlled body', a community council, a community body without a written constitution or a body designated by Scottish Ministers.

A 'community controlled body' does not have to be incorporated but must have a written constitution, which should include:

- A definition of the community to which the body relates (*either a geographical community or formed around a shared interest or characteristic, e.g. faith groups, disability, sports club*);
- Provision that membership is open to any member of that community;
- Provision that the majority of members are from that community;
- A statement of the body's aims and purposes, including the promotion of a benefit for that community; and
- Provision that any surplus funds or assets are to be applied for the benefit of that community.

A valid CPB could also be a more loosely associated group of people with no constitution, as long as they meet the criteria above. It will be for the public service authority to determine whether a group meets the requirements under the Act but it will be for the community group to provide such information as the authority needs to be satisfied.

The Community Planning and Regeneration team can provide advice if you are unsure if your group or organisation counts as a CPB. Advice can also be provided to help groups set themselves up as a valid CPB.

## **Before you start**

The first thing to ensure is that your group is valid CPB (see section above). It is important that CPBs have thought about the purpose of the request and how they want to proceed before entering into any formal process. The following checklist questions from the statutory guidance may help to inform this:

- 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?

There are already several ways to be involved in local decision making, for example through the Local Regeneration Plan Steering Groups, responding to service/policy consultations, joining your local community council, West Lothian Citizens Panel, community equality forums, tenant

participation groups, etc. **Participation requests do not replace these mechanisms.** It may be useful to consider existing processes before submitting a request. The Community Planning and Regeneration team will be happy to discuss this further.

The Act makes it clear that participation requests are to be made and conducted in the spirit of collaboration and dialogue. **The CPB should seek to discuss ideas with the public service authority at the earliest opportunity.** Pre-application consultation will help to ensure that existing processes are used appropriately and that any participation request submitted is well thought out, appropriate and is focused on improving community outcomes. It could be that the CPB and the public body can work together without the need for a participation request to be made. A CPB does however have the right to make a participation request at any time to open up a dialogue.

Please also check that a similar request has not already been made to the council. A record of all requests received will be available on the council's website. The council has the right to refuse a request which is the same or very similar to a previous request made within the last two years (either by the same group or a different one).

The Community Empowerment Act also introduces new rights for community groups to make **asset transfer requests** if they are looking to take over the lease or ownership of a public asset. It is not recommended that asset and participation requests are used together. If you want to take over the running of a service delivered from a public building, then a participation request would be the suitable route. If you want to take over a public building to deliver a service on your own terms or use this for another purpose, then an asset transfer request would be more suitable. If you are unsure of which type of request is more suitable, please contact the Community Planning and Regeneration team.

### **West Lothian Council Process**

When a community group has discussed their idea with relevant council officers and is satisfied that submitting a participation request is the best way forward, the application form on the West Lothian Council website should be completed and submitted.

The application form sets out the information that CPBs are required to provide when making a request. Guidance notes are provided with the form and further detail can be found in the statutory guidance:

[www.gov.scot/Topics/People/engage/ParticipationRequests/ParticipationRequestsGuidance](http://www.gov.scot/Topics/People/engage/ParticipationRequests/ParticipationRequestsGuidance)

West Lothian Council has established a process for dealing with requests that come in to the council. As this is a new process for public authorities, this will be reviewed and refined as more requests are received. The process refers to some deadlines which are contained in the legislation. The council aims to comply with those but in some cases may ask the CPB to agree to an informal extension to allow some more time for discussion or decisions to be made. The council will look to ensure a consistent approach is used but recognises that each request will need to be assessed on its own merits and some may need a more considered assessment than others.

**Please refer to Appendix A for a process flowchart. A summary is provided below:**

- Participation requests will be received by the Community Planning and Regeneration Team. As soon as this is received, a 'Participation Request Panel' will be identified, to be chaired by the Head of Planning, Economic Development and Regeneration and involving the relevant head(s) of service, WLC Governance Manager, relevant lead officers and partners as required. The request will be circulated electronically to this Panel, who will assess whether the applicant is a valid CPB and if all required information is present (using the Application Vetting Checklist).
- In cases where there is a conflict of interest for the Head of Planning, Economic Development and Regeneration, an appropriate alternative officer will be nominated by the Depute Chief Executive (Education and Planning Services) to chair the Panel.
- When the request is circulated to the Panel, the identified lead officer will also be asked to prepare a briefing on the request in order to assist with the Panel's decision-making. The lead officer should aim to prepare and circulate this to the wider Panel within five working days.
- If it is not a valid CPB, the application will be refused and a Decision Notice issued to the applicant on this basis. If the applicant is a valid CPB but not all required information is present, a notice will be sent to say what further information is required. The request is not treated as having been made until all required information is received.
- Once all of the required information is received the application will be valid and the CPB will be formally notified of the Validation Date. This then triggers the statutory timescales. From the Validation Date, the council must publish a Decision Notice within 30 working days, or 45 working days if more than one public service authority is involved. It is up to the lead authority to make contact with any other public service authorities, who will have 15 working days from the Validation Date to confirm whether they will participate. To ensure smooth progress through the legislative process and to avoid any potential future issues in connection with the statutory timescales, it is intended that the majority of the necessary dialogue between stakeholders should be completed during pre-application consultation and prior to allocation of a Validation Date.
- The Participation Request Panel will be convened as soon as is possible after the Validation Date. This Panel will assess the request against a set of criteria. Further information may be requested from the CPB at this stage if required. For simple requests, this may be a 'virtual' Panel, with the decision made by officers via email communication. More complex or large scale requests that may have a material or significant impact on the operations or finances of the council may need to be taken to council committee for decision-making. The legislation allows the council to ask the CPB to agree to an extension to the timescale to allow a request to be taken to committee.
- Once a decision is made a Decision Notice, developed in consultation with the Panel and signed by the Chair of the Panel, will be forwarded to the CPB. This will also be published on the West Lothian Council website (personal information will be redacted). Where the application is refused a clear rationale will be provided in the Decision Notice. Where the application is

approved, the Decision Notice will outline the Outcome Improvement Process (OIP), identifying whether a process already exists or if a new one needs to be established (and how the CPB will be involved in this). The Decision Notice will identify which council service area will be responsible for administering the OIP.

- The CPB can propose changes to a proposed new OIP within 28 days of the issue of a Decision Notice. The council must take account of any changes (this will be discussed by the Panel) and will have a further 28 days to notify the CPB of the final details of the process to be established. The council must start a new OIP within 90 calendar days from when the Decision Notice was issued and published. The council service area identified as being responsible for the request will administer the OIP with support from the Community Planning and Regeneration Team as necessary.
- The council may modify the OIP at a later date if the proposed changes are discussed and agreed with the CPB. A modified OIP will be signed off by the Chair of the Panel and published on the council's website.
- The council will then publish a report on the OIP upon completion, summarising the outcome of the process, how the CPB influenced the process and outcomes and how the council will keep the CPB and others informed about changes in the outcomes of the process. The views of the CPB will be sought when preparing the report. The council will also prepare and publish an annual report covering all participation requests received (by 30 June each year).
- The Act does not currently provide a mechanism for a review or appeal.
- Repeat requests can be refused (see Section 27 of the Act).

## **Support**

If you require any support either before or during the participation request process, please contact the Community Planning and Regeneration Team in the first instance to discuss how we may support you: [community.planning@westlothian.gov.uk](mailto:community.planning@westlothian.gov.uk) (01506 281086).

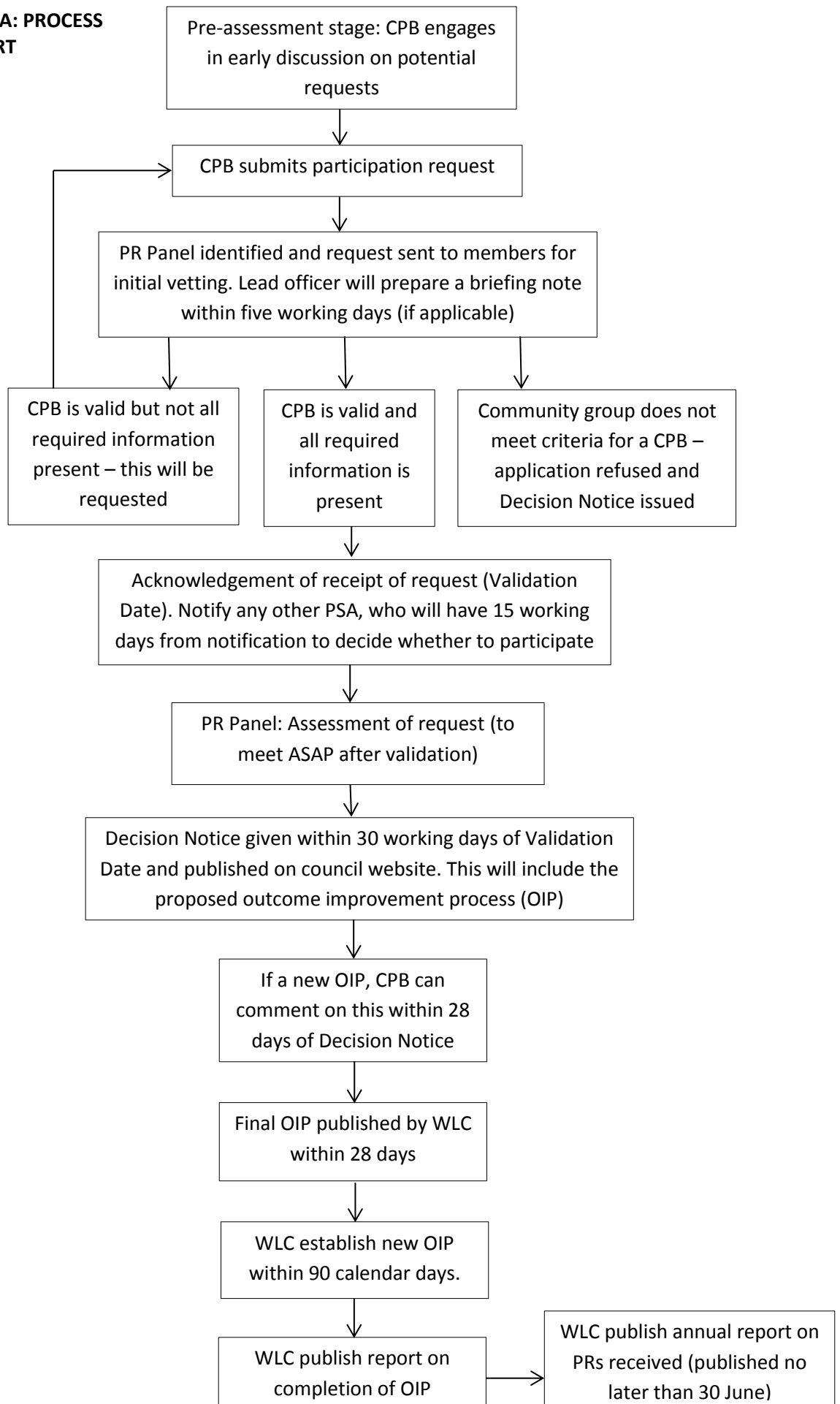
The Scottish Community Development Centre (SCDC) has also produced summary guidance on participation requests:

<http://www.scdc.org.uk/news/article/participation-request-summary-guidance/>

Information in this Toolkit is available in Braille, tape, large print and community languages on request. Please contact the interpretation and translation service on 01506 280000.

Text phones offer the opportunity for people with a hearing impairment to access the council. The text phone number is 01506 591652. A loop system is also available in all offices.

**APPENDIX A: PROCESS FLOWCHART**



## **GLOSSARY**

**Community Participation Body (CPB):** A community body or community council who can make a participation request. The Act sets out the criteria that must be satisfied for the community body to qualify as a CPB.

**Public Service Authority (PSA):** A public body providing a service to the public who CPBs can make a participation request to. The list of public service authorities can be found on page 1 of this Toolkit.

**Outcome:** An outcome is the change that results from what organisations provide or deliver, e.g. an increase in physical activity levels arising from the development of a community park. The increase in physical activity is the outcome.

**Validation Date:** This is the date on which all required information was received by the public service authority. This is the date from which other time limits will be calculated.

**Decision Notice:** Having made its decision, the public service authority must issue a Decision Notice to the CPB, setting out its decision and, if it refuses the request, the reasons for the decision. This must be done 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 between the public service authority and the CPB.

**Outcome Improvement Process (OIP):** The process that will improve the outcome set out by the community body. This will be set out in the Decision Notice.

**Modified Outcome Improvement Process:** The public service authority may modify the process set out in the original Decision Notice to improve the outcome, following consultation with the CPB. Information on the modification must be published.

## **Further Information**

**Scottish Government Guidance on Participation Requests:**  
[www.gov.scot/Topics/People/engage/ParticipationRequests](http://www.gov.scot/Topics/People/engage/ParticipationRequests)

**The Community Empowerment (Scotland) Act 2015 (Part 3):**  
[www.legislation.gov.uk/asp/2015/6/part/3](http://www.legislation.gov.uk/asp/2015/6/part/3)

**Procedure Regulations:**  
[www.legislation.gov.uk/ssi/2017/39/contents/made](http://www.legislation.gov.uk/ssi/2017/39/contents/made)

**Scottish Community Development Centre:**  
[www.scdc.org.uk/what/community-empowerment-scotland-act/](http://www.scdc.org.uk/what/community-empowerment-scotland-act/)