



The
Democratic
Society

Draft Report

Public Participation in Decision-Making

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Introduction

A wide range of people from Scottish public bodies and civil society attended a workshop to discuss public participation in decision-making. The workshop was held in response to the coming into force of the Community Empowerment Act (Scotland) 2015. It took place in Glasgow on 9th March 2016.

The aims of the workshop were to:

- explore methods of implementing the new public participation in decision-making power as described in the Community Empowerment Act (part 10).
- receive critical feedback about this part of the Act
- produce a list of tangible actions to assist the development of the policy.

Staff from The Democratic Society facilitated a series of discussions at the Scottish Epilepsy Centre, Glasgow to explore these questions. This report provides a summary of the points raised and ideas suggested for the use of the legislation to improve public participation in decision-making.

Summary of Speech by the Minister for Local Government and Community Empowerment

The Minister for Local Government for Community Empowerment, Marco Biagi MSP, addressed attendees at the start of the event. He said:

There is an ambition for Scotland to be a country where every person, regardless of circumstances:

- Has the right to take part in debating and shaping the society that we live in and the decisions we take.
- Can influence the decisions that affect them and their families and can trust in the decisions the people they elect make on their behalf.
- Has opportunities and support to lead their own change, with others and on their own.
- Has a voice in their local community and be able to play their part in making it a sustainable and enjoyable place to live.

That ambition has informed our policy and practice. Such as supporting and promoting participatory budgeting in collaboration with local authorities across Scotland. Giving people a more direct say on local spending priorities. At the end of February the Government announced a new £2m Community Choices Fund for 2016-17.

But how do we legislate for participation? The Community Empowerment Act provides for a new regulation making power. The power could require public authorities in Scotland to promote and facilitate the participation of members of the public in the decision making of

the authority. The intention is to use the power to ensure participatory activity takes place and to drive the improvement and depth of that participatory activity over time.

We are at the start of the policy process. It is clear that developing a stretching but realistic set of duties will depend on collaboration and partnership. There are a large number of potential avenues for implementation and policy decisions that need to be taken. We need a broad basis of agreement to develop this legislation and the approach to decision making in Scotland.

Aspirations and commitments

As a result of the event there were seven suggestions for the Scottish Government for how the participation power should be used. There were also a set of principles which they wanted it to support. These are listed and explained in the section below.

Those attending had positive attitudes to engaging the public in decision-making. They expressed strong personal commitment to public participation and were keen explain their support needs to the Scottish Government.

Participants made personal commitments around sharing learning with colleagues and demonstrating that public participation can result in better decision-making. They were committed to benchmarking the current state of public participation with a view to increasing and improving in the future. They believed that further sharing of resources would be of great benefit and could be done through partnerships between public bodies, the Scottish Government and partners in order to create a peer-to-peer 'community of practice' on participation across sectors.

Participants were keen ensure that it would be possible to calibrate expectations among the public by providing clarity about what can be influenced and what cannot be as well as by being explicit about the possible repercussions of decisions made.

Concerns were raised that members of the public often lack the confidence or capacity to be able to participate. Participants agreed that organisations must support their members to build confidence and capacity to participate for example by hosting events where people are instead of organising discrete "participation events" and expecting people to attend. Some participants spoke of the need for "safe space" for discussion at community engagement events. These spaces could help with creating networks, they said.

The 'Link Up' project was cited as an example of good practice. Operating in six parts of Scotland, it seeks to address the lack of confidence and capacity by sending workers to connect skills into communities and strengthen network building.

Ideas for use of legislation

Participants produced a list of ideas for the use of the legislation for public participation in decision-making. These are presented below as a list of how the legislation should be implemented, together with a series of principles it is hoped the Participation Power will support.

These ideas are intended for consideration by the Scottish Government and the advisory group for public participation in decision-making.

1. There should be a duty for public bodies to enable staff to engage the public in decision-making processes; including training, realistic timescales and resources
2. A percentage of public body funding should be assigned to supporting processes for public participation in decision-making
3. There should be reserved budget for funding public participation programmes
4. There should be a duty for public bodies to report on the public participation activities they undertake as a result of the Community Empowerment Act.
5. The number of physical and digital places where people can come together to participate in decision-making should be increased
6. There should be a clear outline of decisions that people can participate in
7. All public bodies should have an accountable senior officer responsible for participation and there should be a non-executive on public body boards appointed as participation champion.

Use of the legislation should support the following principles¹

Early engagement in framing decision-making processes with the public

There was discussion about the power that public bodies have to frame participation processes. For example, a public body could choose only to provide a narrow range of options for the public to choose between, or frame the decision-making process in such a way as to steer the public in a certain direction.

The group stressed that there was need to ensure public involvement in decision-making processes “from step one” as opposed to involving the public at the end of the process, when many important factors may have already been decided.

There was concern that if the duty to involve the public sits with public bodies alone then the participation agenda will rest with public bodies, with little opportunity for input from

¹ A further suggestion which arose from the event was that there should also be a duty on voluntary organisations to engage with the public when making decisions. However, it must be noted that the Community Empowerment Act (Scotland) and the participation power only applies to Scottish public sector authorities and cannot be extended to include voluntary organisations.

the public on implementation. If additional legislation is to be explored, the public must also be involved in the implementation of part 10 of the Community Empowerment Act.

Being aware of power

The group noted that public participation in decision-making could cause tension between the public and those who have power to take decisions, such as chief executives or elected representatives.

Reducing barriers and ensuring diversity of opinion and voices

Suggestions to reduce “barriers” to engagement included: providing accessible, easy to understand information; increasing the range of opportunities and methods for the public to participate in decision-making; increasing ‘spaces’ for participation; supporting the public to participate, by providing skills, knowledge and training; and being mindful of access for disability, minority languages, and literacy needs.

It was felt that if this legislation could be used to help reduce barriers, this would encourage more diversity of opinion in public body decision-making, thus ensuring broader participation.

Co-production and respectful dialogue

The group discussed the need for this legislation to encourage the public and public bodies in working together and ‘co-producing’ decisions and solutions.

There was an understanding that the types of decisions that public bodies make can produce conflict. It was felt that to build trust and public buy in, any participation processes by public bodies should be conducted in a spirit of collaboration and respectful dialogue.

Encouraging public bodies to be risk aware, not risk averse in relation to public participation

Attendees felt that public bodies should be risk aware, as opposed to risk averse, in relation to public participation. There was a feeling that any legislation relating to participation should enable public bodies to expand public participation in decision-making and learn lessons from good practice in Scotland. There was also a feeling that there should be flexibility around the implementation of decisions made with the public to ensure that decisions made were affordable, sustainable and realistic.

Participation projects to have tangible impact and a feedback loop

Attendees felt that this legislation could help ensure that participation processes used by public bodies are meaningful and have impact. There was a call for increased transparency of information relating to participatory processes in order to ensure they are open and fair

and that people hear the outcome of their participation in order to view such processes as authentic and consequential.

Scottish Government to lead by example

While attendees welcomed the work being done by the Scottish Government to increase levels of public participation in decision-making in local authorities and public bodies, some participants felt that any legislation that is produced should also shape the future direction of public involvement in Scottish Government decision-making.

For example, while attendees welcomed support to local authorities to experiment with participatory budgeting, some felt that the Scottish Government should also be exploring aspects of the national budget being made available to the public to decide how to spend that budget.

Culture change towards participation at all levels

The group felt that this legislation should be used to change current culture towards participation at all levels of public bodies. Such a shift towards participation should come from the leaders of government. The legislation should help create a culture that focuses on mainstreaming participatory processes to make them more valued throughout public bodies in Scotland.

Thresholds and minimum requirements

Overall there appeared to be an appetite for using the participation power in a way that does not allow public participation in decision-making to become a tick box exercise.

Several people voiced concerns about establishing a minimum standard for participation because they feared it could lead to tension. For example, some felt there should not be a requirement to enforce a percentage of decisions to be made through participation. This was because they felt public bodies would be encouraged to do the bare minimum as opposed to encouraging wider cultural change in relation to public participation in decision-making.

Thresholds were also seen to be problematic because they could be interpreted in different ways by different public bodies. They also worried that minimum thresholds could lead to a situation where decisions that were considered 'niche' or a 'minority issue' might not be required to include public participation, thus negatively impacting equalities and minority groups.

Prescription and Guidance

Participants expressed a hope for this legislation to underpin the gradual transformation of public bodies to a position where participation is the norm. Some attendees felt that it might not be the best way to encourage that culture change and that guidance would be more welcome and more likely to produce the desired outcome.

There was much debate about how prescriptive legislation should be and a wish for it to balance prescriptive requirements with the freedom to allow public bodies to think differently about engagement and participation.

Participation Fatigue

There was concern that this legislation for increased participation could lead to "participation fatigue", where the public are overwhelmed by invitations to participate, resulting in their disengagement. However, it was argued that if public bodies clearly demonstrated the impact of public participation processes, participation would be seen as worthwhile and the process would help build trust between the public and the public bodies.

Implementation of the legislation

Participants felt that this legislation could help support public bodies to use public participation in decision-making, provided it is implemented in an appropriate manner. They felt that the Minister for Local Government & Community Empowerment could support public bodies with the participation power duty if the following conditions were met:

- The power should be implemented as part of a tapered process of public involvement, starting with small decisions and moving to bigger ones
- The power could be implemented topic-by-topic, or service-by-service, in order to extend it gradually
- Experimentation and piloting of participative approaches should be encouraged throughout public bodies, with good and bad practice being shared in order to assist with the implementation of further public participation
- There should be sufficient capacity building in place for participation processes to be meaningful
- There should be a duty on public bodies to consider the process of public participation in its entirety
- The timetable for implementation of the legislation should be carefully managed
- The Minister for Local Government & Community Empowerment should reassure the public that the participatory processes are democratic.

Creating Scenarios for Implementation

Participants were asked to come up with scenarios that could result from the implementation of the participation duty.

Scenario 1: Streetscaping

A public body such as a local authority wants to reduce anti-social behaviour and fear of crime in an area of multiple deprivation through streetscaping.

The ideal outcome here would be that the council and local residents would create a place where people want to go. There will be other secondary positive outcomes for health, community cohesion etc.

Who is involved?

Local residents (people living on one street); elected members; community groups; youth groups; children; housing association; police and fire services (specific unit: safety by design); planners; people with technical knowledge of streetscaping; transport; local press; local business; sanitation; Architecture and Design Scotland; artists; health

Participation methods

- Community is the catalyst – they need to know what you (the local authority) are offering
- Participatory mapping / assets – multiple events at different times
- Is streetscaping the right thing to do? Says who?
- Place standards tool – help to dig out community assets

- Work with local groups to plan
- Community festival – either taking part in something that already exists or establishing something new which is community-led
 - Space for dialogue and deliberation
 - Is anti-social behaviour an issue?
 - Do we need to do streetscaping?
 - What is the evidence?
 - Show case stalls with models designed in previous step
 - Feed this into: locality planning team
- Learning journey: speak to other communities with experience
- Participatory budgeting:
 - We have x amount to solve y issue – how?
 - Where does the budget come from?
 - Give people the opportunity to participate
 - Clarity about what decisions are up for offer (expectation setting)
 - Method: charettes; idea ranking process

Scenario 2: Prison Service

A prison service wants to allocate budget and resources for the delivery of end-to-end family support programme

The desired outcome is that everyone feels heard. People feel they have had a tangible impact on the final decisions made and feel involved and engaged in the process. At the same time the governors and board of the prison should feel that the process was useful and powerful.

Who is involved?

Prisoners, families, SPS board, 3rd Sector organisations, social workers, NHS support in prison

Participation methods

- Interviews and focus groups with families and prisoners (to build trust and help people have confidence to participate)
- Working group and roundtable with service providers (public and 3rd sector), and support providers, and DWP services, with representation from board (to be part of process)
- Input sought on views of local residents in prison locality, and prisoners locality (feeds in to evidence collation)
- Service blueprint (to help with mapping of service usage)
- Story dialogues (to gain personal views)
- Feedback mechanism (to let families know outcome of their involvement)
- Digital and online input sought (to reach more people)

- Votes for people who have been involved in the process to make decision (participants look at research from focus groups/interviews and make an informed decision on reasonable support for the programme)

Portfolio of options offered to families to choose from (lets families select pick which option they want)

Scenario 3: On street drinking

A local council and Police Scotland want to review of the enforcement of the public disorder act. In particular, the issue of the local by-laws surrounding drinking in public. They need to decide if the by-law should change to allow on street drinking and, if so, under which circumstances?

The outcome they hope for is that the decision is made in the open and in a transparent manner, taking into account the needs the wide range of views involved and that the participative process encourages the embedding of participation in local decision-making.

Who is involved?

NHS, Local Authority, Voluntary Sector, businesses, including pubs and off licences, licensing authority, police officers and council staff, residents, tourists, local drinkers, religious communities, schools and parents, local social support.

Participation methods

Referendum to check status quo and explore whether there was appetite for by-law change

- Some attendees liked this idea as it encouraged regular participation as part of public life, and could help ascertain if public participation in a particular decision was necessary.
- Others felt referenda would be costly and provide a simplified version of complex issues.
- There was agreement that public bodies should work with the public to 'sense check' the status quo before engaging the public in a decision-making exercise.

Participation research

- Involve the public in researching the pros and cons of changing the law, exploring case studies from other cities and countries, and sharing learning with local authority and make recommendations

Deliberative forums

- Public produce various scenarios to help make recommendations
- Public should hear evidence and information about the issue being discussed and deliberate over options and make recommendations

- Evidence sessions should focus on using dialogue in order for the public to discuss issues with experts called to present evidence to the forum
- Deliberative Forums should have a balance of viewpoints and use random representative sampling for recruitment
- Multiple forum could take place to ensure a wide range of people are involved and wide range of options and ideas are considered by the public
- Deliberative forums should 'over compensate for easily ignored' to ensure people from across society are involved in the decision-making

Explore the issue using digital engagement

- Use social media, and a range of traditional communication techniques to have people engage with the issue
- Invite public to participate in online forums to have shape decision on issue

Scenario 4: Building a new college

A further education college in a semi-rural area wants to build a new campus.

The desired outcome is that the public are engaged in making the final decision about the project and that the participative approach should be shown to add value to the deliberative process. We would want a multitude of people to be fully engaged in the process. It is hoped that this project can be used as a case study to support further public participation in decision-making.

Who is involved?

The entire local community, including schools, pupils, future pupils, current staff and students, local residents in all potential locations, the local authority, schools/education board, health board, employers of previous students, transport providers, funders, local business, others.

Participation methods

- Set of public meetings to involve people as early as possible and ensure broad representation.
- Reference groups/citizen jury
- Paying people to engage
- Reference groups/panels with the public
- sustainable procurement and hiring
- Citizen-led Environment and Equality Impact Assessment
- Environmental and justice issues.

Support Required

Participants were asked to highlight the support needs of public bodies in order to carry out meaningful public participation exercises.

Looking forward, participants were concerned that the following issues should be resolved:

- What impact will this power have?
- How it will help public bodies to involve public in decision-making?
- In what situations this will happen?

Their identified areas of support needed broadly fell into the categories of skills, capacity and culture change.

Skills

Attendees expressed a desire for further learning about participation methods and to develop the skills necessary to be able to use these effectively. There was clear demand for creating barrier-free spaces and ensuring accessible information. They felt it would be helpful if terms and language were defined and not open to interpretation e.g. participation. There was a clear call for training and building up in-house skills. It was suggested that there should be a mandated percentage of people in an organisation who must be skilled up to aid public participation.

Capacity

Participants had requirements around building capacity to engage meaningfully. This could be done through establishing partnerships with community organisations, they suggested. They called for realistic financing and timelines and stressed the need for openness in relation to the cost of public participation.

There was a feeling that many found it hard to get people involved in big issues but suggested the creation of a 'standing bucket'; a jury or citizen panel of a 'bucket' of people ready to participate.

In order to enable public bodies to fully engage with different and diverse communities, they called for resourcing to fund the lowering of barriers to participation in order to promote equality of opportunity to participate.

Culture change

A powerful message resulting from the event was that participation should be considered as part of the everyday work of public bodies. There were also calls for a defined toolkit of the known practices and processes and for an improved system for measuring success. Participants noted that public participation in decision-making should be flexible enough to allow people to have an impact.

There were concerns from many attendees about participation becoming a tick box exercise. This legislation, they said, should not have loopholes which could allow some public bodies not to take the new public participation duty seriously. Concern was expressed that the blame culture could prevent public bodies from experimenting with public participation, for fear of failure. Local Authorities need permission to experiment with participation and a chance to build learning through this process, they said.

Participants sought nothing less than culture change to move from the present situation to a culture of shared decision-making. They felt it was important that people in senior positions should consider participation as inherent in their job, not as an additional pressure. This needs to be coupled with a move to co-production and addressing the issues of accountability and impact.

Overview of public bodies' current public participation

In addition to the recommendations for how public bodies can respond to and adopt the new legislation, there was also acknowledgement of the participation activities they already practice to allow the public to *inform* decision-making. There is a wealth of good practice, some of which is described below, but also the understanding that more should be done to ensure that the public actually *participate in decisions*.

Participatory budgeting was raised as an example in all groups. Attendees from local authorities were particularly keen to highlight their existing participatory budgeting practices.

Others identified opportunities for the future, including the shaping of budgets for community health exchanges.

Further examples of public participation included: citizen procurement on the Isle of Rum, where a public assessment panel makes recommendations on stalking rights contracts on the island; an engagement process in Aberfeldy involving the public in decision-making on the closure of a rural hospital using open meetings, data sharing and public advisory groups; co-design of spaces between young people and council officers in Glasgow; the undertaking of extensive community consultations with Police Scotland and the role of social media and smartphones in providing online options for participation.

The Forestry Commission described how, by drawing on international examples, they had created a toolbox for public involvement in forest and woodland planning.

A project where local residents were involved in design and commissioning of a local bus service in the Outer Hebrides was considered a particularly interesting and successful example of participation.

There was a feeling that significantly more work is needed to share learning about different approaches to public participation between public bodies in order to ensure it is meaningful.

Several participants raised concerns about their lack of capacity to manage additional responsibilities such as participatory decision-making. There was also discussion about the relative advantages or disadvantages of smaller or larger bodies.

The funding of local authorities by the Scottish Government was raised as a cause for concern if local authorities are to take on new responsibilities to undertake new methods of engaging in participatory decision-making.

Community planning partnerships (CPP) were not considered a successful means to engage people due to their size. However, others considered CPPs to be a good starting point to explore meaningful public participation in decision-making.

It was noted that there has been a downward trend in trust of local authorities and that often the local authority needs to engage community groups to act as enablers to engage members of the public in participation programmes. Participants felt that such mistrust was as a result of previous negative experiences of responding to calls to engage with public decision-making.

It was suggested that trust will grow between the public and public bodies as participative processes become common and are seen to be impactful.

There was a fear that leaders of public bodies who currently hold power might be reluctant to allow the public to share that power in a meaningful manner. It was suggested that Part 10 of the community empowerment act could encourage public bodies to do this.

Methods for engaging the public in decision-making

In the second session, participants discussed the relative merits of different methods for participation. They were asked to suggest methods they thought could gain traction.

Noting that there is no single tool for participation that would work across all public bodies and contexts, participants concluded that a range of tools would be required to ensure the most successful engagement and participation practices.

When selecting tools for engaging the public, participants thought it important to consider communities of interest, characteristics and place.

The group listed the following participation methods they felt would be useful for public bodies to explore:

- Charrettes
- Citizen Assemblies
- Citizen Juries
- Citizen Panels
- Citizen Science & Data Gathering
- Community Mapping
- Deliberative Forums
- Deliberation
- Digital Engagement
- Mini-publics
- National Conversations
- Open Space Technology
- Participatory Budgeting
- Participatory Research
- Participatory Appraisals
- Place Check
- Place Standard
- Planning for Real
- Scrutiny Panels
- School visits
- Surveys of public

What does success look like?

Groups put forward ideas about how to ensure valuable public participation in decision-making.

Some participants flagged the risk-adverse nature of public bodies being a potential barrier to early involvement, but one group felt this could be mitigated by encouraging a more flexible approach to participation.

Attendees thought that making explicit connections to cost effectiveness would help local councils appreciate various participation methods.

Throughout the day participants stressed the importance of the public being involved from the start of any participative process – including in planning and helping to decide the budget - where appropriate. This was an issue that was mirrored by other participants and in other discussions on the day of the event.

Some participants expressed a desire for communities to feel a sense of “ownership” over decisions. They felt it was important that communities should have the right to call meetings and be supported to run the process themselves. Nonetheless it was also felt that decision-makers should feel they can get help from the public to make important decisions.

Some participants considered public involvement in decision-making as an approach that was impactful in building trust. They thought the public should be empowered through being shown the whole budget and given real power to make decisions about public spending locally. In order to maintain that trust, they saw a need for decision-making bodies to keep people informed during all stages of the process and to take meaningful action as a result of public participation.

There were many calls for creating spaces for participation that are inclusive and accessible community places. To ensure this, there would need to be sufficient capacity building and community development to support community infrastructure. Language and terminology would have to be accessible for all members of the community. There would also need to be a wide range of ways to be involved, including in person and online/digitally.

Opportunities for public participation

Attendees outlined a number of areas where the public could directly influence decision-making. These were:

Procurement: Public deciding who delivers services and contracts in areas and services

Allocation of resources: Public deciding how money, workforce, information and capital assets are managed and used

Policy direction and implementation: Public deciding on a particular policy issue

Service delivery & service design: Public deciding how local services work and change

Devolution of Resources: Public deciding if funding should be devolved

Strategy: Public deciding strategic direction of a public body

Planning: Public deciding future developments and changes in a local area, service or public body

There was agreement between participants that budgetary decisions would be a good starting point for public participation, although public bodies must aspire to broader participation. They were concerned that the more engaged and motivated people could feel disempowered if the public were only afforded limited participation in aspects of decision-making.

There was a suggestion that the public should help to decide contentious issues, but not where this would be off-putting for people.

Where next?

Suggestions to the Scottish Government and Public Bodies

Finally, participants came up with a series of ten suggestions for the Scottish Government and public bodies about next steps to support the successful implementation of the Participation Power.

1. Scottish Government should provide guidelines to public bodies for public participation, good practice and decision-making frameworks. Also provide clear definitions of terms and expectations.
2. Scottish Government should lead by example in engaging the public in their own decision-making.
3. Scottish Government should marshal the available experience, evidence and methods to create an array of adaptable tools to support public bodies in engaging the public in participation
4. Public bodies and the Scottish Government should collaborate to establish partnerships to create a 'community of practice' on participation and build a peer-to-peer network across sectors. For example, public bodies could have an accountable senior officer responsible for public participation and/or a participation champion appointed as a non-executive member to public body's board.
5. All involved should contribute to the establishment of a participant portal for members of the public and for public body staff. This should hold information about opportunities for public participation and the outcomes of such participation.
6. All involved should measure success through mapping of current levels and monitoring progress, possibly through the imposition of a duty to report and share progress.
7. There should be a duty for public bodies to train in public participation processes, including setting realistic timescales and allocating resources
8. A percentage of public body funding should be assigned to support processes for public participation in decision-making
