

Citizen Participation and Public Petitions Committee

6th Meeting, 2022 (Session 6), Wednesday
20 April 2022

PE1902: To allow an appeal process for Community Participation Requests

Note by the Clerk

Lodged on 13 October 2021

Petitioner Maria Aitken on behalf of Caithness Health Action Team

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to allow an appeal process for Community Participation Requests under the Community Empowerment Act 2015.

Webpage <https://petitions.parliament.scot/petitions/PE1902>

Introduction

1. The Committee last considered this petition at its meeting on [17 November 2021](#). At that meeting, the Committee agreed to write to the Scottish Community Development Centre.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received a new response from the Scottish Community Development Centre which is set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

Action

The Committee is invited to consider what action it wishes to take on this petition

Clerk to the Committee

Annexe A

PE1902: To allow an appeal process for Community Participation Requests

Petitioner

Maria Aitken on behalf of Caithness Health Action Team

Date lodged

13/10/2021

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to allow an appeal process for Community Participation Requests under the Community Empowerment Act 2015.

Previous action

I have spoken to MSP Edward Mountain and MSP Rhoda Grant who both support the need for an appeal process to be part of Community Participation Requests.

Background information

Community participation is an excellent way for communities to have influence on services and be part of decisions that affect their lives. This is particularly important for rural communities who need to be consulted and involved in any decisions that impact on their fragile communities.

NHS Highland covers an extremely wide area and decisions are mainly made centrally. We have been left to feel we have no voice and are disempowered within our own community.

Although NHS Highland management were engaging with members of our team, we were not being consulted or involved in any of the decisions. Therefore, Caithness Health Action Team formally requested to participate in future decision making.

Unfortunately, we were turned down to be part of this process due to minor issues with our Constitution which we believe to be unfair. Surprisingly we have since found there is no appeal process that could review our request.

Annexe B

Extract from Official Report of last consideration of PE1902 on 17 November 2021

The Convener: The next petition is PE1902, on an appeal process for community participation requests. The note on the petition is quite long but, as if to prove my earlier point, we are joined again by Rhoda Grant, who was not necessarily expecting to be with us this morning. I am pleased that she is here, because it means that I now do not have to read out what would have been her written submission if she had not joined us.

The petition, which was lodged by Maria Aitken on behalf of Caithness Health Action Team, calls on the Scottish Parliament to urge the Scottish Government to allow an appeal process for community participation requests under the Community Empowerment (Scotland) Act 2015. The 2015 act was intended to encourage and support community involvement and participation in public services. Part 3 of the act introduces the right to participation requests, which aim to ensure engagement and dialogue between community participation bodies.

The right to appeal decisions on participation requests was examined by the Local Government and Communities Committee during its post-legislative scrutiny of the 2015 act, and a recommendation in relation to an appeals process was made in the committee's final report.

A three-year evaluation of the operation of participation requests was published in April 2020 and concluded: "Given the significant challenges to introducing an appeals process and in ensuring its fairness and robustness, alongside the very small numbers of participation requests completed using the legislation, this is likely to be a longer-term piece of work."

The Scottish Government submission notes that the Scottish Community Development Centre has been asked to explore what an appeals process might look like and that the centre will report its findings later this year. I am delighted to ask Rhoda Grant to speak in support of the petition.

Rhoda Grant: Thank you for allowing me in again to comment on this petition.

I meet CHAT quite regularly, and in July, it raised the issue of community participation with me. The group had contacted NHS Highland, but the health board refused to recognise it as a constituted community-controlled body. I believe that the group is controlled by the community and that it needs to be recognised as such. It has a constitution, which sets out that it is community led, and it holds regular annual general meetings and regularly meets the community that it represents.

I have taken the matter up with NHS Highland on the group's behalf, but it is not changing its position. As there is no appeals process, CHAT has no chance to debate its case with someone from outwith the organisation.

Members of the public regularly contact CHAT to ask for its assistance and to advise it of issues that they have faced, and, to be honest, I think that that often puts it at odds with NHS Highland. Nevertheless, I believe that it fulfils an important role in the community. It is keen for the health authority to engage with its members before any action is taken up in Caithness; in fact, the team has given me examples of issues on which there has been no consultation at all. For instance, a midwife-led maternity unit that was introduced resulted in a 200-mile round trip to Raigmore hospital for pregnant at-risk women.

I agree that people in Caithness are victims of the centralisation of healthcare services and that rural areas are being left out of the decision-making process. An appeals process would let the team question the ruling of any public body, and I support its introduction sooner rather than later. I would also say that NHS Highland's out-of-hand dismissal of an appeal on this matter is wrong, and an appeals process would at least give the team the right to call such decisions into question. At any rate, I think that the board's approach is questionable.

The Convener: Thank you very much. Do colleagues have any comments?

David Torrance: I think that we should keep the petition open and write to the Scottish Community Development Centre for an update on its work on exploring what an appeals process for community participation requests might look like and when it expects to conclude that work.

The Convener: I do not mean to generalise, but my experience with health boards, particularly those with no such appeals processes, is that a determination is made and anyone who then tries to pursue any alternatives meets a blank wall. The absence of an appeals process in this case is a failing, because, with the example that Rhoda Grant has expressed an interest in, a subjective view seems to have been taken with regard to excluding this body, and that is that—even though it is, as Ms Grant seems to be saying, the body that local people are using to try to make these kinds of representations.

Alexander Stewart: There is no doubt that there is a gap here, given all the talk about engagement, dialogue and community participation, and Rhoda Grant has made quite a strong case with regard to this specific issue. I suggest, therefore, that we continue with the petition so that we get more clarity to understand and assess the procedure involved and to ensure that what should be taking place in this health board is actually taking place.

The Convener: A recurring theme of this morning's meeting seems to be the need to ensure that requests for appeals are recorded and the outcomes monitored, given that the same issue arose in a previous petition. Do members agree to keep the petition open?

Members *indicated agreement.*

The Convener: We will, in the first instance, try to get some idea of the timeline for the work on developing an appeals process, as we would not want that to be open ended.

Annexe C

Scottish Community Development Centre submission of 1 December 2021

PE1902/B - To allow an appeal process for Community Participation Requests

As part of our broader work programme on participation requests, funded by the Scottish Government, Scottish Community Development Centre (SCDC) is currently exploring a potential model for an appeals mechanism for participation requests.

The work follows on from February's [Scottish Parliament Local Government and Communities review](#) of participation requests and asset transfer, which recommended the introduction of an appeals mechanism for participation requests. In addition, the Scottish Government-commissioned [evaluation](#) of parts 3 and 5 of the Act identified an appetite in communities for considering appeals. The need for an appeals mechanism has been a common theme to emerge in our own support, training and learning in relation to participation requests.

To take forward our work on looking at how an appeals mechanism could work, a working group will be formed consisting of a range of people and organisations with experience of, and an interest in, participation requests. Invitations to express interest in the group will be sent via a wide range of networks, and particular effort will be made to include groups from communities with protected characteristics under the Equality Act 2010, as well as communities experiencing poverty and inequality.

The group will explore different potential models for an appeals mechanism. Ideas from the group will also be put out to further consultation with a wider range of people. The [invite for expressions of interest](#) is now being publicised, with the work due to be carried out from January until April 2022.

Background to the work

Since consultation began on Community Empowerment (Scotland) Act (then Bill) was proposed in 2012, SCDC has been a key resource for both community groups and public bodies seeking to shape, understand and make use of participation requests. Since 2012, the Scottish Government has commissioned SCDC to carry out the following work.

- Facilitating consultation around the development of the Act with a wide range of stakeholders across Scotland.
- Contributing to the development of the Scottish Government's statutory guidance on participation requests.
- Forming, facilitating and supporting a working group to develop summary guidance on participation requests.
- Delivering regular workshops to communities, public bodies and a range of other stakeholders on participation requests.
- Learning and sharing how participation requests are being used, and what can be done to support marginalised and disadvantaged communities to take advantage of the legislation.
- Developing a range of accessible resources to support participation requests, with a particular focus on increasing the use of participation requests by marginalised and disadvantaged communities. This year SCDC will launch a new participation request resource pack and will be testing our tools and approaches with public bodies and community organisations in sites around Scotland.
- Providing advice and guidance on participation requests to community groups and public bodies. Our support has led to successful participation requests being made and outcomes being improved as a result in some instances.

For more information on SCDC's work on participation requests, including our programme of work this year, please see

<https://www.scdc.org.uk/news/article/2021/11/19/pushing-participation-forward-scdcs-work-around-participation-requests>