

Corporate Policy and Strategy Committee

10am, Tuesday 28 March 2017

Community Empowerment (Scotland) Act 2015: Participation Requests

Item number	7.3
Report number	
Executive/routine	
Wards	All

Executive Summary

This report sets out the legislative context for participation requests as contained within the Community Empowerment (Scotland) Act 2015 and the proposed Council interim approach to meet this new duty.

Links

Coalition Pledges	P23, P33
Council Priorities	CP4, CP13
Single Outcome Agreement	SO4

Community Empowerment (Scotland) Act 2015: Participation Requests

1. Recommendations

It is recommended that the Corporate Policy and Strategy Committee:

- 1.1 notes the content of this report;
- 1.2 agrees to the proposed interim approach subject to a six month review with the findings informing the development of a policy on participation requests to be submitted to Council for approval in the last quarter of 2017/18; and
- 1.3 agrees for Council to receive an annual report on participation requests in advance of submission to the Scottish Government in June 2018.

2. Background

- 2.1 The Community Empowerment (Scotland) Act 2015 passed into law on 24 July 2015. The Act introduces a suite of measures designed to support communities to engage with the Council and other public bodies with a view to improving outcomes in their community. The measures come into force at different times subject to the passing of secondary legislation and the development of guidance.
- 2.2 The provisions within the Act will provide further impetus to the already established practice in the City of involving citizens in improving outcomes and influencing decision making processes, and contribute to the delivery of the Council's Business Plan.

3. Main report

- 3.1 A key measure of the Act is Part 3 – Participation Requests. This is a new duty that is designed to strengthen community participation in improving outcomes. It will provide community bodies with a formal mechanism to request to participate in dialogue and contribute to decision making processes which are aimed at improving outcomes.
- 3.2 To request to improve a service a community group does not need to be constituted but must be community led, with most members drawn from the community, with an open membership and work for the benefit of the community. Community councils are included.

- 3.3 Through the process, a community body can request to take part in an outcome improvement process. To do this they need to identify the outcome, why they should take part and what improvement they expect their involvement to make. The legislation identifies a range of areas where an improvement might be achieved:
- Economic development;
 - Regeneration;
 - Public health;
 - Social wellbeing;
 - Environment wellbeing;
 - Reduce inequalities of outcome which result from socio-economic disadvantage;
 - Likely to lead to an increase in participation in the outcome improvement process and/or the design/delivery of a service relating to the outcome from people experiencing socio-economic disadvantage.
- 3.4 The legislation stipulates the public service bodies to which a participation request can be made and includes provision for a request to be made to more than one public service body at the same time.
- 3.5 Participation requests are not intended to replace but to strengthen and build on existing participation processes. They are also not intended as an extension of complaints procedures. They are designed to provide an opportunity for communities to establish formal dialogue with public service bodies on improving outcomes.
- 3.6 The regulations with respect of the duty are currently before Parliament and the duty will come into force on 1 April 2017. The statutory guidance has now been produced and this has informed the development of the Council's proposed interim approach.
- 3.7 An Officer Working Group has been established, as agreed by the Corporate Policy and Strategy Committee in November 2016. This Group has developed a project plan, which comprises two phases. The first phase is focused on developing the interim approach to ensure the Council is in a position to respond to the duty by 1 April 2017. The work streams delivered or in progress as phase one include:
- 3.7.1 Business process – Participation requests will be facilitated by the Information Governance Unit within the Strategy and Insight Division. This process will align with other statutory regimes and work is progressing to enable system set up, together with the production of templates and the consideration of personal data issues through a privacy impact assessment;
 - 3.7.2 Risk assessment – A high level risk assessment has been carried out with a risk workshop proposed as part of the phase two work programme. Through these initial discussions a key issue that has emerged is the role of the Integration Joint Board which is not

currently identified as one of the public service bodies under the legislation. This presents particular risks in responding to participation requests relating to services delegated to this body. The issue has been raised with the Scottish Government and guidance currently is being sought on the matter;

- 3.7.3 Equality and rights impact assessment;
 - 3.7.4 Approach design and production (see appendices);
 - 3.7.5 Delivery of internal staff workshop - A workshop was held on 2 March 2017 involving staff from across a range of services. The purpose was to raise awareness of the legislation and to review the proposed Council approach. Feedback from the session has informed the approach and the identification of key strands of work for inclusion in phase two of the project plan;
 - 3.7.6 Organisation of partner workshop to initiate discussions on managing participation requests to more than one public service body to be held on 29 March 2017;
 - 3.7.7 Development of a communications plan.
- 3.8 The proposed interim approach for managing participation requests is in line with the statutory requirements and is set out in Appendix 1. This is complemented by a flow chart summarising the process attached as Appendix 2. The regulations provide for a statutory form which sets out the essential information required for a community body to make a participation request. This can be modified by the public service body to allow for additional information. The form proposed for use by the Council is attached as Appendix 3.
- 3.9 In developing the approach key areas have been considered as highlighted below.
- 3.10 Inclusion of an initial dialogue stage prior to the submission of the request. Whilst this is not a requirement of the legislation, public bodies are encouraged to provide opportunities for community bodies to discuss their ideas in advance of submitting a participation request. Including this provision recognises that participation requests are only one element of the Council's engagement practice and approach to working with communities. It also provides a mechanism for supporting communities in making their request. It does not however remove the right of a community body to submit a participation request without prior discussion.
- 3.11 A single point of contact for community participation bodies. Initial contact will be within Strategy and Insight. Enquiries and/or requests will be reviewed and highlighted to the appropriate director, ensuring the process is owned by the most relevant service and can be referred to an appropriate lead. This will ensure a consistency of approach across the Council.
- 3.12 Dealing with requests where the outcome relates to more than one public service body. A workshop with partners is planned for 29 March 2017, with activity in

relation to this aspect of the legislation forming a key element of phase 2 of the project plan.

- 3.13 Ensuring a consistency of approach and meeting the timescales required by the legislation. Managing the process through the Strategy and Insight Division will provide a mechanism for supporting a consistency of approach, support for leads and managing the legislative time requirements. Additionally, it will facilitate the annual reporting process. All public service bodies must publish a report by 30 June each year detailing the number of requests received, number refused or agreed, the number leading to improvement, how requests were promoted and how communities were supported to participate.
- 3.14 Scrutiny of refused participation requests. The legislation requires a public service body to agree a request unless there are reasonable grounds for refusal. This does not mean that requests automatically need to be agreed but they must be considered. To ensure consistency it is proposed that all refused requests will be reviewed by the Council's Monitoring Officer.
- 3.15 Establishing appropriate governance arrangements – The process will be led by the Strategy and Insight Division and reported in accordance with the existing governance framework.
- 3.16 A key feature of phase two of the project plan will be the delivery of a programme of promotion and support tailored to reflect a range of stakeholders, including elected members and communities. Whilst an initial briefing will be provided for elected members it is proposed, post election, to build in support as part of the new member induction programme, recognising the important role they have in supporting communities.
- 3.17 In developing the community programme particular regard needs to be given to establishing approaches to ensure marginalised groups and those least likely to participate are reached. Specific resource requirements will need to be identified. The regulations provide that the public service body must promote the use of participation requests by publishing on a website and through social media. This will need to be complemented by offline activity. Additionally, the production of guidance and other support materials for communities will be explored, with this work being taken forward in partnership with the Scottish Community Development Centre.
- 3.18 In providing support, the best practice principle detailed within the Standards for Community Engagement, will be referenced. It is not necessary for support to be provided solely by the Council and where appropriate community bodies will be made aware of other routes to secure support to develop their ideas.

- 3.19 As a new duty, how it will operate will emerge over the coming months. Given this an interim approach is proposed subject to a six month review. This will enable engagement with the community and other stakeholders, with this, together with the findings from the review, informing the development of the Council's policy on participation requests. This will be submitted to Council for approval in the last quarter of 2017/18. Ongoing oversight will be provided by the Officer Working Group, which will also lead on delivery of phase two of the project plan.

4. Measures of success

- 4.1 Specific measures of success are yet to be identified but might include the number of participation requests dealt with that lead to improved services.

5. Financial impact

- 5.1 Resources for the operation of the interim approach are to be contained within existing service budgets. However, the specific financial and resource impacts may need to be readdressed depending on the extent to which communities use the powers available to them under the legislation and the volume of work this generates.
- 5.2 Where a participation request seeks to alter or redesign areas of service delivery, the outcomes may impact on service budgets.

6. Risk, policy, compliance and governance impact

- 6.1 Participation requests will be monitored for adherence to timescale, refusals and outcomes. There are potential local and national reputational risks by failing to meet timescales and by refusing a high proportion of participation requests.

7. Equalities impact

- 7.1 The interim approach to participation requests will assist the Council to meet the Equality Act 2010 public sector duties to advance equality of opportunity and foster good relations. An Equalities and Rights Impact Assessment was undertaken in regards to the establishment of the approach and no specific concerns were highlighted as a result.

8. Sustainability impact

- 8.1 There are no adverse environmental implications arising from this report.

9. Consultation and engagement

9.1 Engagement with stakeholders forms a key element of the work programme.

10. Background reading/external references

[The Community Empowerment \(Scotland\) Act 2015](#)

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11. Links

Coalition Pledges	P23 – Identify unused Council premises to offer on short low-cost lets to small businesses, community groups and other interested parties P33 – Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used
Council Priorities	CP4 – Improve quality of life – Safe and empowered communities CP13 – Transformation, workforce, citizen and partner engagement, budget
Single Outcome Agreement	SO4 – Edinburgh’s communities are safer and have improved physical and social fabric
Appendices	Appendix 1 – Participation Requests – Interim Approach Appendix 2 – Participation Requests Flow Chart Appendix 3 – Participation Request Form

City of Edinburgh Council

Participation Requests – Interim Approach

Part 3 of the Community Empowerment (Scotland) Act provides a framework for the use of participation requests by community participation bodies. This approach sets out how the Council will manage participation requests as required by the legislation.

The approach provides guidance to community bodies on how the duty will be applied by the Council.

Before Making a Request

Before making a request, community participation bodies are encouraged to contact the Council to discuss their ideas. This will enable opportunities for existing participation to be identified and, where a participation request is subsequently submitted, help ensure that it is appropriate and focused on improving outcomes.

Whilst initial discussion is encouraged, this does not replace the community participation body's right to make a participation request without this.

Interim Approach - Stages

The Council's interim approach to managing participation requests follows four key stages, summarised in the flow chart in Appendix A and as set out below.

Stage 1 - Making a Participation Request

A participation request must be from an eligible community participation body. To qualify the group must have a membership that is open to the community and whose work is for the benefit of the community. Community applies to both geographical communities and communities of interest. The group does not need to have a written constitution and can be incorporated or unincorporated. Community Councils are included.

Where the community body does not qualify as a community participation body, the Council will contact them explaining why they are not considered eligible directing them to the guidance on eligibility.

The participation request must specify:

- An outcome that results from the provision of a service provided by the Council or on its behalf.
- The reasons why the community participation body should participate in the outcome process.

- Any knowledge, expertise or experience the community participation body has in relation to the specified outcome.
- An explanation of the improvement in the specified outcome which the community participation body anticipates may arise as a result of its participation.

A participation request will not be treated as having been made until all of the required information is received.

Participation requests must be submitted using the statutory participation request form either in writing or electronically, included as Appendix B.

A participation request should be accompanied by a copy of the community participation body's constitution and other governing documents as appropriate. The Council will check that the information provided meets the requirement of the Act.

Where a request is valid, an acknowledgement will be issued. This will include a validation date for the request which is the date on which the required information was received.

The request will be assessed within 30 working days of the validation date or 45 where the request relates to more than one public service body. The period can be extended if agreed between the Council and the community participation body.

In addition to the Council, a request can be made to colleges and universities, health boards, Highlands and Islands Enterprise, the police, the Fire and Rescue Service, Scottish Natural Heritage, regional transport authorities, national parks and the Scottish Environment Protection Agency.

Stage 2 - Making a Decision

Once validated and acknowledged the request will be assessed. In doing this the Council will consider whether it is likely to promote or improve:

- Economic development.
- Regeneration.
- Public health.
- Social wellbeing.
- Environment wellbeing.
- Reduce inequalities of outcome which result from socio-economic disadvantage.
- Likely to lead to an increase in participation in the outcome improvement process and/or the design/delivery of a service relating to the outcome from people experiencing socio-economic disadvantage.

A request will not need to address all of these areas, and may fit into one or more of the categories. Consideration will also be given to any other benefits that may arise.

In making the decision, the Council will take account of responsibilities under the Equalities Act 2010. Due diligence will be taken with regard to impacts upon people with protected characteristics and those experiencing socio-economic disadvantage.

Having assessed the request the Council will issue a decision notice. This will set out the decision, and if refusing the request, the reasons for this. A copy of the decision notice will be published on the Council website.

The request will be agreed unless there are reasonable grounds for refusal. Where a request is refused the Council will explain the reasons for the refusal. The Council can refuse a request if it is the same or essentially the same as a request received in the preceding two years. The Council can refuse a request on these grounds even if it was from a different community participation body.

If the Council decides to refuse the participation request there is no provision under the legislation for review or appeal.

Stage 3 - The Outcome Improvement Process

A decision notice agreeing to the participation request will include details of how the Council (and other public service bodies where relevant) proposes to take forward the outcome improvement process.

Where a process already exists

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

Where a new process needs to be established

The decision notice will:

- describe how the outcome process will operate;
- explain how the community participation body is expected to participate; and
- describe how any other persons are expected to participate in the process.

On receipt of the notification, a community participation body will have 28 days to discuss and make representations in relation to the proposed outcome improvement process. The Council will take account of these proposals.

The Council will publish on the Council website information on the proposed outcome improvement process including the names of the community participation body and public

bodies involved, the outcome to which the process relates, how the process will operate and the timescale for completion.

The Council will start a new outcome improvement process within 90 calendar days from issuing the decision notice.

The outcome improvement process may be modified, following consultation with the community participation body. Where this happens, the Council will publish a new modified outcome improvement process. This notice will include details of how the outcome improvement process has been modified.

Stage 4 - Reporting and Review

On completion of the outcome improvement process the Council will publish a report summarising the outcomes of the process, the contribution of the community participation body and how the Council will keep the community body informed of any matters relating to the outcome. In preparing the report, the Council will seek the views of the community participation body that made the request and any other community participation bodies involved.

On an annual basis, the Council will publish a report setting out the number of participation requests received; the number agreed and refused; and the number of requests which resulted in changes to a public service. The Council will also provide information on how the use of participation requests has been promoted and the supported.

These annual reports, covering 1 April to 31 March, will be published by 30 June and will relate to the number of requests received, agreed and refused in the given year. Decisions received but not yet assessed may be reported in different years.

Roles and Responsibilities

The Act and associated guidance identifies specific responsibilities on the community participation body in making a participation request. Community participation bodies are encouraged to familiarise themselves with these requirements, seeking independent advice where appropriate.

The Council participation request process will be managed by the Governance Information Unit, Strategy and Insight Division. The Unit will act as the first point of contact for participation requests and will administer all aspects of the process.

Individual service areas, as relevant to the outcome identified in the participation request, will be responsible for engaging with the community participation body, assessing the eligibility of the participation request, defining the outcome improvement process and producing reports in respect of these requests. Each service area will identify a single point of contact for the purposes of managing participation requests.

Where a participation request is refused, the grounds for the decision will be reviewed by the Council's Monitoring Officer to ensure compliance with the legislation and consistency of approach.

Support will be provided for service areas by an Officer Working Group comprising representatives with expertise in community participation and drawn from across the Council. In addition to providing advice and guidance, this group will monitor progress on the implementation of the policy on a quarterly basis and, in the first year of operation, provide updates to an appropriate Council Committee.

The Council annual report will be produced by the Strategy and Insight Service and reported to an appropriate Council Committee.

Flow Chart – PDF so attached as separate document

Participation Request Form

1 Details of Community Participation Body

Name of Community Body:

Contact Name:

Contact address:

Contact Telephone number:

Contact Email:

Website (if available):

Please ensure that you include a copy of your written constitution or governance documentation if available.

2 Name of the public service authority to which the request is being made:

Note 1

3 Name of any other public service authority which the community participation body requests should participate in the outcome improvement process:

Note 2

4 The outcome that community participation body want to improve:

Note 3

5 The reasons why the community participation body should participate in an outcome improvement process:

Note 4

6 Knowledge, expertise and experience the community participation body has in relation to the outcome:

Note 5

7 How the outcome will be improved because of the involvement of the community participation body:

Note 6

8 What type of community participation body are you?

a) A community controlled body

b) A community council

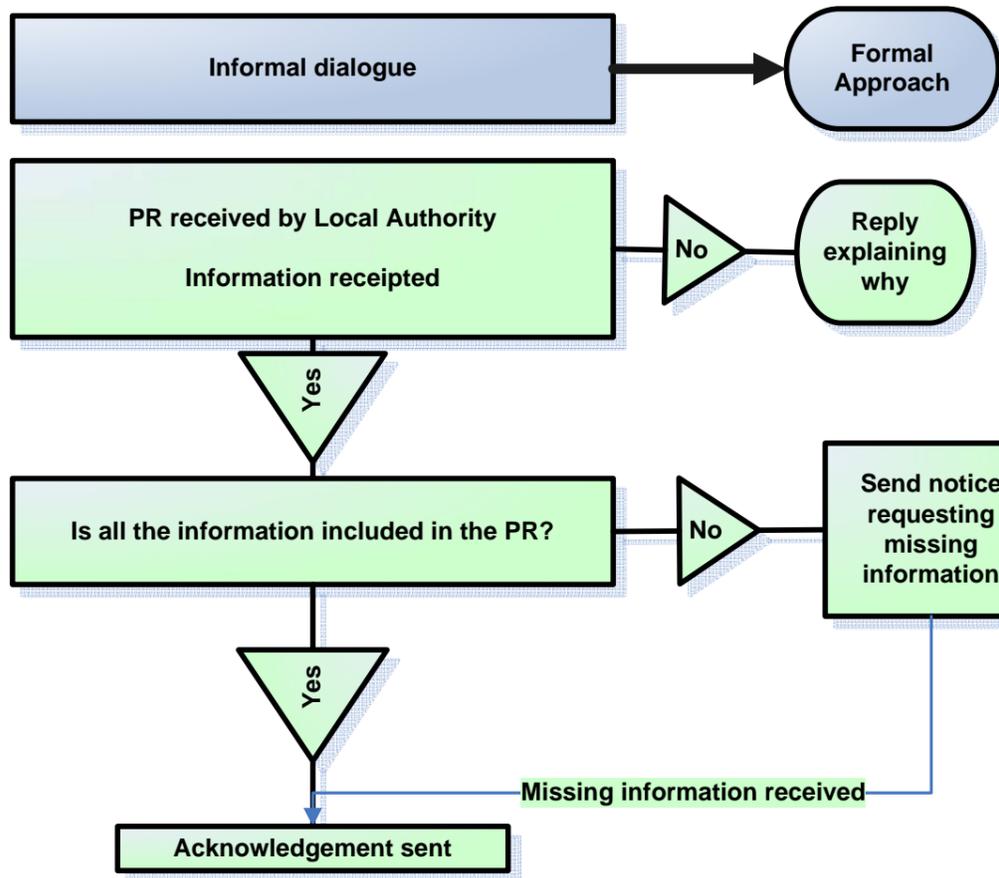
c) A body designated by the Scottish Ministers as a community participation body

d) A group without a written constitution

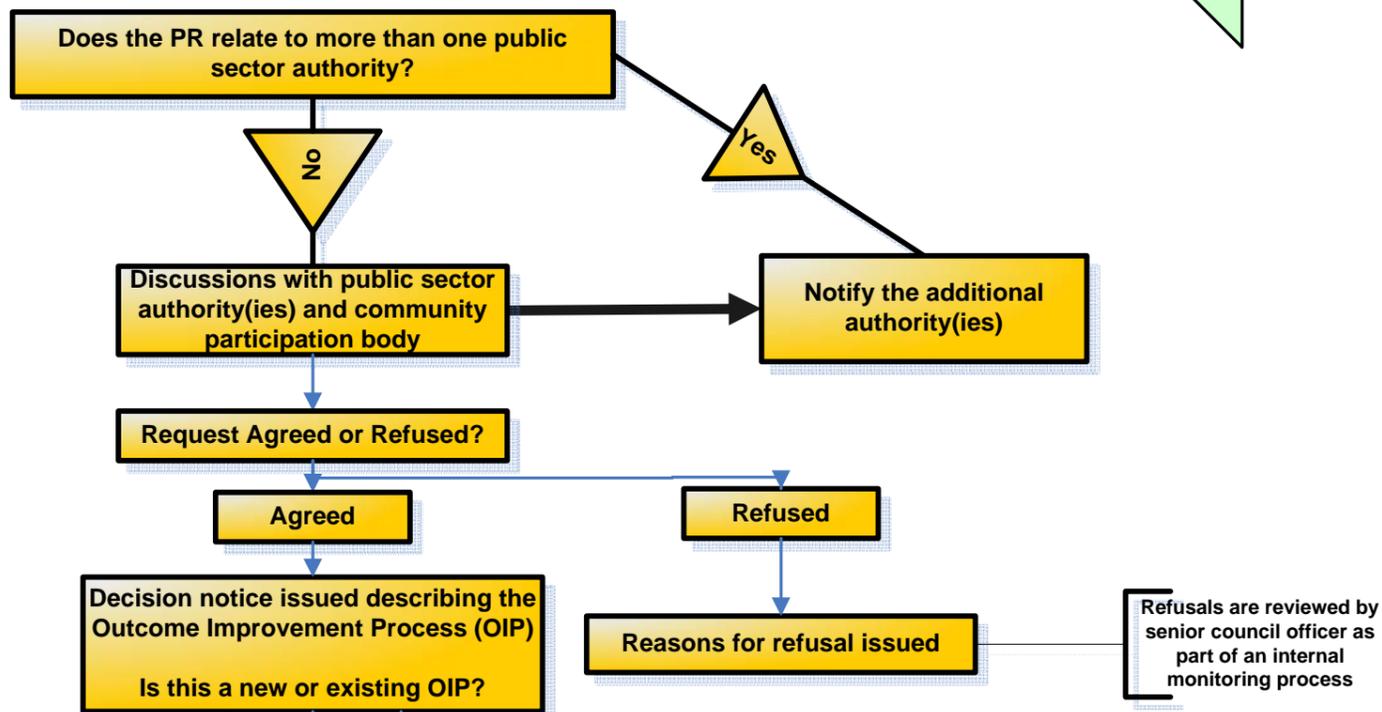
Note 7

9 Additional Information

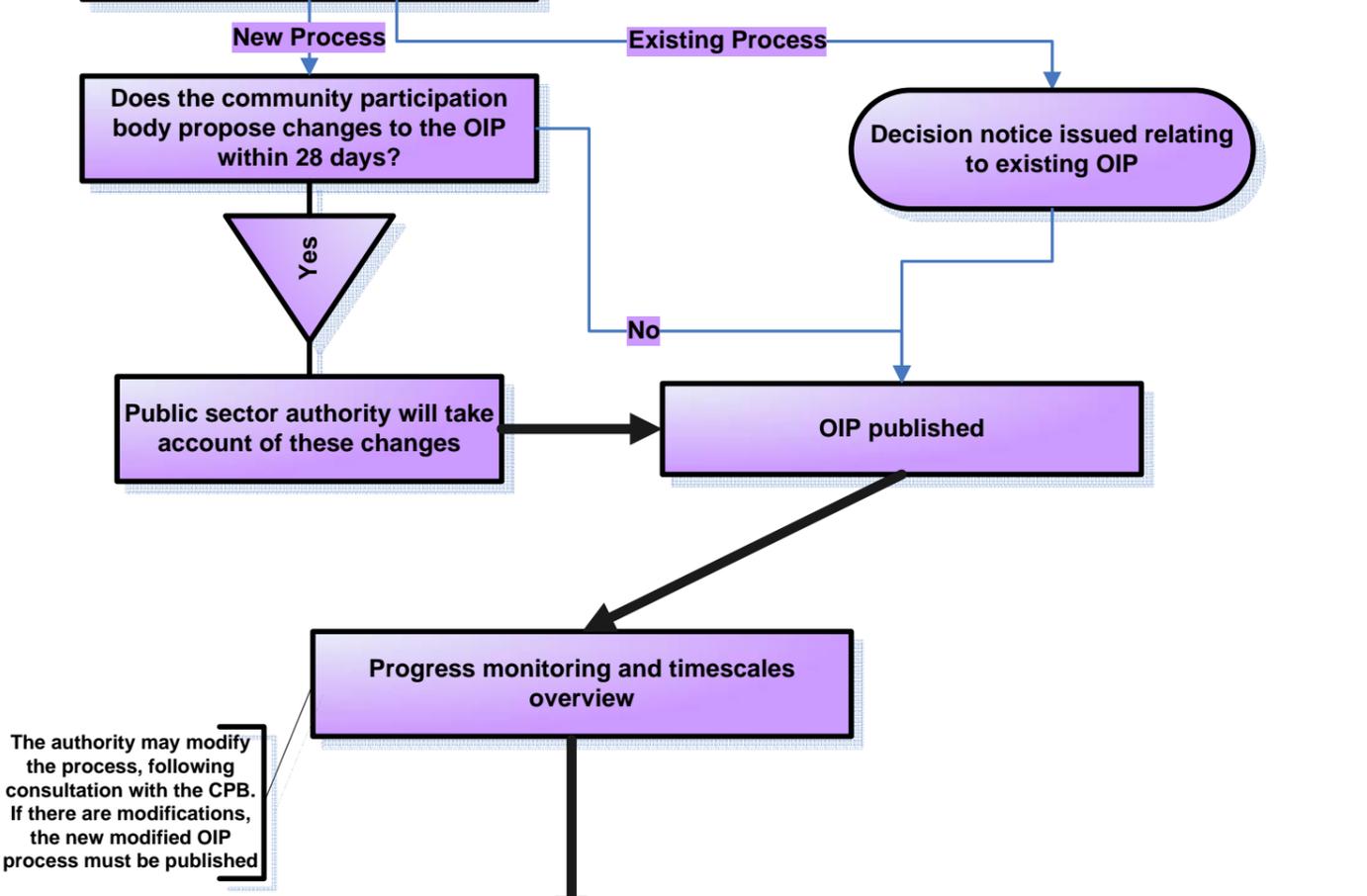
Stage 1 – Making a Participation Request



Stage 2 – Making the decision



Stage 3 – Outcome Improvement Process (OIP)



Stage 4 – Reporting and Review

