



Ministry of **JUSTICE**

Voting rights of convicted prisoners detained within the United Kingdom

List of questions for response

We would welcome responses to the following questions set out in this consultation paper. Please email your completed form to: simon.meats@justice.gsi.gov.uk or fax to 020 3334 3749. **Thank you!**

Question 1. Do you consider that convicted prisoners should

(a) retain the right to vote if they are sentenced to a term of imprisonment of less than one year; or

(b) retain the right to vote if they are sentenced to a term of imprisonment of less than two years ; or

(c) retain the right to vote if they are sentenced to a term of imprisonment of less than four years ; or

(d) retain the right to vote if they are sentenced to a term of imprisonment of less than two years, but be able to apply to a court to retain the vote if they are sentenced a term of imprisonment of between two and four years?

Please give reasons for your answer.

Comments: The Criminal Justice Alliance believes that all prisoners should be enfranchised, regardless of the length of their custodial sentence. The 2004 European Court of Human Rights (ECHR) ruling (Hirst vs. the United Kingdom) declared voting a right, not a privilege. Starting from the premise that prisoners should not be enfranchised unless their sentence is below a certain length

fundamentally contradicts this ruling. While those who commit crimes lose the right to liberty, they remain citizens. All citizens, whether they have been given a custodial sentence or not, should retain the right to vote as the default option.

The ban on prisoners voting is also damaging to efforts to rehabilitate prisoners and reduce reoffending, exacerbating social exclusion and severing ties between prisoners and society, while there is no evidence to suggest that the ban has a deterrent effect on offending. It therefore serves no positive purpose, while contributing to high reoffending rates. The disenfranchisement of prisoners also has a disproportionate effect on ethnic minorities, due to their overrepresentation in the prison population.

In addition, the existing situation is inconsistent. British prisoners in foreign prisons are allowed to vote, as 'penal institutions' in the Prisons Act 1983 does not extend to jails outside of the UK. Offenders serving sentences in the community are also allowed to vote. The ECHR ruling presents an opportunity to remove the contradictions from the current position on offenders' right to vote, by enfranchising all prisoners. Any other option will retain unacceptable inconsistencies.

The options presented also call into question the validity of the two-stage consultation process being carried out on this issue. Only 4 respondents to the initial consultation (less than 5% of all respondents) favoured a system of enfranchisement based on sentence length. A failure to recognise the lack of support for this option suggests that the Government is not willing to listen to the views of consultees. By contrast, nearly half of respondents (47%) supported full enfranchisement, yet this is not offered as an option in this second consultation paper.

Of the options offered, we support (c) as this is the 'least disagreeable' proposal that has been made. However, we maintain that none of the above options is appropriate.

Question 2. If you favoured option (d) in answer to question 1 above, do you consider that the default position should be that prisoners sentenced to between two and four years' imprisonment are disenfranchised unless a court agrees to allow them to retain the right to vote on application; or that such individuals should retain the right automatically unless a court deprived them of it. Please give reasons for your answer.

Comments: If option (d) is favoured, which the Criminal Justice Alliance does not support, then prisoners sentenced to between two and four years in prison should retain the vote unless a court deprives them of it. Retaining the vote should be the default position, reflecting the fact that voting is a right, not a privilege. It would also have a lesser administrative burden on the courts than compelling all prisoners sentenced to between two and four years to apply to retain the vote.

Question 3. If you favoured option (d) in answer to question 1 above, do you have any other views on how this approach should be implemented?

Comments: If option (d) is favoured, which the Criminal Justice Alliance does not support, then clear criteria should be set as to why the court would prevent specific prisoners sentenced to between two and four years from voting.

Question 4. The government proposes that each prisoner who is entitled to vote to be given the opportunity whilst in prison of making an application for registration through the 'rolling registration' route. Do you agree?

Comments: The Criminal Justice Alliance agrees that prisoners should be enabled to register to vote through the 'rolling registration' route as this is the most workable process. There should be an explanation of the registration process in the prison induction, and administrative measures should be put in place to ensure that prisoners are able to register and cast their votes in practice. As well as the practical

advantages of this registration option, being given the opportunity to register themselves would actively engage prisoners in the political process and promote the responsibilities of citizenship.

Question 5. The government proposes that prisoners should be entitled to register and vote on the basis of their previous or intended address, or through a 'declaration of local connection', rather than at the address of the prison where they are located. Do you agree?

Comments: The Criminal Justice Alliance agrees that prisoners should be able to register to vote on the basis of their previous or intended address or through a 'declaration of local connection'. Many individuals serving custodial sentences find themselves far from home, with detrimental effects on family and community relationships. Voting in the constituency from which individuals have come or which they intend to go to would help to maintain a prisoner's links with their local community, thus making reintegration on release more likely.

However, there is a proportion of prisoners who may not have ties to a particular community outside that of their prison (for example, those who have moved around extensively prior to imprisonment). In these cases, prisoners should have the option to vote in their prison's constituency. This would be in line with the current status of students, who have the option to vote in the constituency of their educational institution.

Question 6. The government proposes that a special registration form for convicted prisoners should be created to help ensure that only those entitled to vote may do so. Should the registration form be attested by a prison officer, and/or accompanied by a copy of the prisoner's detention order?

Comments: Existing registration forms should be used as they are for every other

voter, without attestation or accompaniment. A complicated registration procedure would act as a further barrier to prisoners taking up their right to vote, as well as creating extra work for an already overstretched prison service.

Question 7. Do you have any other comments on the mechanics of the registration process for prisoners?

Comments: The current problem of overcrowding and the transient nature of the prison population both have to be taken into account as possible hurdles to providing all prisoners with access to registration and to the casting of their vote. The Government should ensure that practical measures address these possible hurdles and that work is carried out to encourage as many prisoners as possible to vote, once they have the right to do so.

The Electoral Commission includes remand prisoners as one of its 'hard-to-reach' groups who should be targeted to encourage a higher voting turnout. When sentenced prisoners are enfranchised, they should also fall into the 'hard to reach' category, and this should be reflected in the Government's and the Electoral Commission's policies and election infrastructure.

The Criminal Justice Alliance also supports the proposal from UNLOCK (which is a member of the Criminal Justice Alliance) in its response to this consultation that prison governors and staff should be duty bound through a prison service order to identify eligible prisoners, pro-actively inform them of their voting rights, be fully conversant with the registration process, and ensure that it is facilitated.

Question 8. Do you agree with the government's proposal for the display on the electoral roll of information relating to prisoners registered to vote?

Comments: We agree that the electoral roll should display the information of prisoners registered to vote in the same way as overseas electors, displaying their name and elector number. Prisoners would then be able to amend this after release.

Question 9. Do you agree that prisoners should be entitled to register anonymously

subject to meeting the same conditions as other individuals applying for the facility?

Comments: Yes. Prisoners should have the same access to this entitlement as other voters.

Question 10. Do you think that prisoners should be able to vote

- I. By post (as suggested); or
- II. By proxy; or
- III. Both?

Please give reasons for your answer.

Comments: Both. Remand prisoners are currently able to vote by post or proxy. We believe that as many options as possible should be available to enable prisoners to cast their votes. This consultation paper states that it is probable that not all prisoners will be able to appoint a proxy. This is an argument against limiting the options to proxy voting alone, but not an argument for only having postal votes. Postal votes should of course be private, and not eligible to be read by prison staff.

In order to maximise the equivalence between prisoner voting and voting in the community, however, the Government should also consider whether polling booths could be set up in prisons to allow those prisoners who do vote in the prison's constituency (if measures are introduced to allow this in some cases, see the answer to question 5 above) to vote directly.

Question 11. Do you have any other comments on the mechanics of the registration process for prisoners?

Comments: No. (This is a repeat of question 7).

Question 12. Do you believe that prisoners should be entitled to vote at local elections and referenda?

Comments: Yes. Again prisoners should have the same rights as other citizens to vote in all elections and referenda that are available to other voters. In order to promote re-integration on leaving prison, prisoners should be able to take part in local politics by voting in local elections. The right to take part in local elections and referenda encourages an interest in local community issues.

Question 13. Do you have any other comments and suggestions on the proposals for implementing the Hirst (No. 2) judgment?

Comments: The Hirst vs United Kingdom ruling emphasised the right to free and fair elections as a human right.

The current UK law is based on the outdated concept of 'civic death' laid out in the 1870 Forfeiture Act, which entails the withdrawal of citizenship rights as punishment. However, deprivation of liberty is the punishment that prison inflicts, and prisoners still remain citizens while incarcerated as they are bound by the same laws (which manage their incarceration) and continue to have rights to services such as healthcare. Blanket disenfranchisement of any group of prisoners is not logical or democratic. The Hirst (No.2) judgement should be fully complied with by enfranchising all UK citizens serving custodial sentences in British prisons.

There is significant precedent for the enfranchisement of individuals serving custodial sentences. Ireland has recently moved to enfranchise all its prisoners, 18 out of 51 Council of Europe countries allow all prisoners the vote, and many others allow voting with some restrictions. The UK is one of only nine European countries that disenfranchise all sentenced prisoners automatically. The others are Armenia, Bulgaria, the Czech Republic, Estonia, Hungary, Luxembourg, Romania and Russia

Five years have passed since the ECHR ruling that the blanket ban on sentenced prisoners voting was in violation of the European Convention on Human Rights. The Joint Committee on Human Rights has noted that if legislative solution is not introduced during the next parliamentary session and in place by next spring there is a significant risk that the next general election, which must take place by June 2010, "will take place in a way that fails to comply with the Convention and at least part of

the prison population will be unlawfully disenfranchised.” (Joint Committee Human Rights, 31st Report, 7 October 2008; para 63). In June 2009, the Committee of Ministers at the Council of Europe also expressed its "concern about the significant delay in implementing the action plan and recognised the pressing need to take concrete steps to implement the judgment particularly in light of upcoming United Kingdom elections which must take place by June 2010 at the latest". Given this timeframe the Government should address this issue as an urgent priority.

Please complete the section overleaf to tell us more about you.

About you

Please use this section to tell us about yourself

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If you would like us to acknowledge receipt of your response, please tick this box	<input checked="" type="checkbox"/> (please tick box)
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If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

The Criminal Justice Alliance (formerly the Penal Affairs Consortium) is a coalition of organisations committed to improving the criminal justice system. It has 46 members - including campaigning organisations, voluntary sector service providers, umbrella groups, research institutions and trade unions (a full list of members is available at <http://criminaljusticealliance.org/organisations.htm>) - bringing together a wide range of organisations involved in policy and practice across the criminal justice system. Although the Criminal Justice Alliance works closely with its members, this response should not be seen to represent the views or policy positions of each individual member organisation.
