



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 Prison Reform Trust believes all prisoners should have the right to vote because in a democracy everybody counts. The case for reform rests on the view that voting should not be a privilege; it is a basic human right.

- In March 2004 the European Court of Human Rights ruled that the UK

Government's blanket ban on sentenced prisoners voting was in violation of Protocol 1, Article 3 of the European Convention on Human Rights.

- The UK is out of step with most other European countries. The UK is one of only nine European countries automatically disenfranchising all sentenced prisoners.

- The ban perpetuates social exclusion and the notion of 'civic death'. Social exclusion is a major cause of crime and re-offending. Removing the right to vote increases social exclusion by signalling to serving prisoners that, at least for the duration of their sentence, they are dead to society.

- Minority ethnic groups are disproportionately affected. While approximately 2% of the UK population is black, an estimated 11% of the British national prison population is black.

- The ban contributes to the failure of imprisonment. Reconviction rates show that imprisonment fails to rehabilitate a very high proportion of offenders. Without the vote, prisoners have no formal, organised and protected right to a voice. This removes one of the pivotal ways of being heard by a Government and leaves prisoners with limited, if any, recourse to challenge their worsening conditions.

- The ban is an unjust additional punishment that achieves nothing.

We are disappointed the Government has chosen to ignore the findings of its previous consultation - which found overwhelming support for total enfranchisement – and is now looking at options affecting only prisoners sentenced to four or less years.

Option (c) is the least worse option of those presented. This would allow sentenced prisoners to retain the right to vote if they are sentenced to a term of imprisonment of less than four years. Although falling far short of compliance with the judgement of the European Court of Human Rights (*Hirst vs. the United Kingdom (No. 2)*), this is preferable to the other limited options presented.

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 this option is pursued, then these individuals should automatically retain the right to vote unless a court deprives them of it.

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: The presumption should be that prisoners have the right to vote unless the court decides to disenfranchise as an additional punishment because of the circumstances of the particular case, for example where an offence of electoral fraud is concerned.

Requiring these prisoners to apply to the courts for the right to vote seems an unnecessary bureaucratic burden for prisoners and for the courts and will have a negative impact on the legal aid budget.

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: Option (a), 'rolling registration', is necessary because, for example, many prisoners will have lived alone before their imprisonment. However, it is unclear why this option cannot be used in conjunction with option (b), a household annual canvas form completed by the head of the household. There is no evidence

to suggest that errors on the canvas form will be different for people in prison than for other people.

For prisoners who have been homeless prior to imprisonment, application for registration could be undertaken through the procedure detailed in Prison Service Order 4650 - Prisoners' Voting Rights. This gives two options for homeless prisoners held on remand awaiting trial: registering in a constituency where they have lived previously, following a "declaration of local connection"; or registering at the address of the prison establishment in which they are held.

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:

Yes, PRT is unaware of anyone calling for prisoners to be registered at the address of the prison in which they are held. It is right that prisoners are able to have a say on who represents the communities to which they plan to return.

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: This seems unnecessary and a bureaucratic burden for overstretched prisons. It is unclear why existing registration forms cannot be used. Allowing all prisoners to vote would obviate many of the Government's concerns and be administratively simpler.

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

Comments: PRT notes that the Electoral Commission has identified people held on custodial remand as 'hard to reach voters' and may wish to work to ensure that, once sentenced prisoners have the right to vote, as many as possible are registered to do so.

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: Yes. PRT can see no objection to treating prisoners as foreign electors for the purposes of displaying information on the register.

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.

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 entitled to vote by post and proxy. PRT is unaware of any evidence that this has been, or in future could be, problematic for the Prison Service.

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

Comments: Since the opportunity for sentenced prisoners to exercise their voting rights will be new within the prison system the Prison Reform Trust recommends that prisoners have clear information about voting procedures, both verbally from staff, and in writing including in easy-read form. A Prison Service Order will need to be issued for governors and staff.

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

Comments: Yes. Prisoners should have the same voting rights as other citizens and so be able to vote in European, national and local elections, as well as in referendums.

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

Comments: The Hirst judgement was made over five years ago. The UK Government's appeal was dismissed nearly four years ago. The first consultation paper was published over two and half years ago.

The Government's dilatory response to the Hirst judgement undermines the UK's commitment to human rights generally and the Council of Europe in particular.

PRT is further concerned the Press Association ('Short –Term Prisoners Set to Get Right to Vote', 8 April 2009) reports that a 'Ministry of Justice spokesman said the Government had no plans to legislate on the issue before the next election'. Since the next general election must be held by summer 2010, this is an unacceptably long timeframe for compliance. We refer also to the concerns expressed by Parliament's Joint Committee on Human Rights that further delays risk unlawfully disenfranchising people (JCHR, 31st Report, 7 October 2008). The Council of Europe Committee of Ministers has responded to complaints and "expressed 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 UK elections". They will resume consideration of this case in December 2009 at the

latest. (Council of Europe, Committee of Ministers, 1059th (DH) meeting, 5 (morning)
June 2009, section 4.2)

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 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.

I represent the Prison Reform Trust (PRT), a UK charity chaired by Dame Jo Williams and directed by Juliet Lyon CBE. It has a Trustee Board of 14 members, a staff team of 15 plus five regular volunteers and 10 independent research associates. There are around 1,000 Friends and subscribers to PRT.
