



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: UNLOCK believes that all prisoners should have the right to vote regardless of sentence length. Strong support for this position is reflected in responses to the first stage of the consultation and it is extremely disappointing that this has not been taken into account when the list of options in this question was drawn up.

The Government has stated its refusal to countenance the possibility of full enfranchisement, however the arguments put forward in defending their position on have been found wanting by the ECtHR. The Government claims that banning prisoners from voting is justified to prevent crime, punish offenders and to enhance civic responsibility and respect for the law. However, the ECtHR found no evidence to support the claim that disenfranchisement deterred crime and considered that the imposition of a blanket punishment on all prisoners regardless of their crime or individual circumstances indicated no rational link between the punishment and the offender.

The ECtHR also maintained that removal of the vote in fact runs counter to the rehabilitation of offenders as a law abiding members of the community and undermines the authority of the law as derived from a legislature which the community as a whole votes into power.

With regard to the responses made to the first stage of the consultation, UNLOCK is dismayed that in spite of a request by the Joint Committee on Human Rights (Political Parties and Elections Bill (Fourth Report of Session 2008-09) the Government has failed to publish these, providing only a response summary. Such failure not only frustrates proper scrutiny at both individual and parliamentary level but leaves the Government open to criticism that it has effectively ignored arguments raised by respondents calling for full enfranchisement and further raises questions about the integrity of the consultation exercise.

Of the 88 responses received to the first stage consultation, 41 argued in favour of full enfranchisement (an option rejected by the Government before the consultation took place) with 25% of respondents in favour of the blanket ban continuing – an option which is unavailable under the ECtHR ruling. This means that 37 were in favour of partial enfranchisement allowing the conclusion to be drawn that of respondents supporting either partial or full enfranchisement, over half favoured full enfranchisement.

We are dismayed that no heed has been paid to the majority of respondents and the second stage consultation, as with the first, seeks to elicit a response which the

Government finds palatable rather than one which reflects majority opinion.

Further, the second stage consultation offers four options for prisoners enfranchisement based on sentence length despite the fact that only four respondents to the first consultation actively agreed with such a system.

UNLOCK cannot with conviction choose any of these options, however, for the purposes of overall accounting we select (c) – the least worst.

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: NA

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: NA

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: Yes.

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 default position for electoral registration by prisoners should be on the basis of their previous or intended address, or through a declaration of local connection. However, there may well be some prisoners who for one reason or another have no previous address, no intended address and who cannot declare a

local connection other than the prison in which they currently reside. In these circumstances, the option of providing the prison address where they are located must be made available in order to uphold their right to participate in elections.

It is worth noting the position of other defined groups living somewhere other than their home address. For example, students are able to register at home and at their term-time address. Whilst they can only vote once in a UK Parliamentary, Scottish Parliamentary, National Assembly for Wales or European Parliamentary election, they can vote twice (at home and at university) in local government elections as long as they are not in the same local government areas.

This model demonstrates a precedent for facilitating with relative ease the registration of large numbers of people living away from their home plus the lack of perceived impact on election outcomes when several thousand people residing in a particular location are able to exercise what might effectively be a block vote by one group of people. In 2003/04 there were some 2.3 million students in further education the majority of which were eligible to vote. Prisoners represent a fraction of this number and the number likely to register at their prison address (where this address is the only option) even smaller. Therefore the risk of election results being determined on the basis of where a prison is sited is negligible whilst at the same time constituency candidates are more likely to take an active interest in prisons as part of the community rather than institutions outside of their responsibility or concern. Arguably it would make more sense for MPs to be able to respond to prisoners residing in their constituency rather than in a prison elsewhere in the country.

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 is an unnecessary step which would create needless bureaucracy

which, based on our actual experience of ID affirmation carried out in our projects in individual prisons, would very likely to lead to undue delay in the registration process. Given that registration can take place up to 11 days prior to a general election this could cause prisoners to lose their vote.

Existing registration forms should be used as they are for every other voter without attestation or accompaniment.

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

Comments: The Electoral Commission has previously identified prisoners on remand who are eligible to vote as a 'hard to reach group'. The same would apply to sentenced prisoners and measure taken to increase participation.

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 it is facilitated. Compliance should form part of individual prison reports with accurate records kept of the numbers of prisoners who a) are eligible to register, and b) exercise their right.

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

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: (iii) Both. This choice is already available to remand prisoners. Given that a prisoner is eligible to vote, the means by which s/he may do so should be as wide as possible.

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

Comments: See question 7 - this question has been duplicated.

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

Comments: Yes. The right to vote should encompass all elections and referenda that is available to any other voter.

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

Comments: Under the principle of subsidiarity of the Human Rights Act convention system, the UK Government has specific obligations in its compliance with Court judgments. Included in these are 1) to put an end to the breach, and 2) to prevent further violations in the future. Over five years have passed since the unanimous ruling of the ECtHR ruled that the blanket ban on sentenced prisoners voting was in violation of Protocol 1, Article 3 of the European Convention on Human Rights and the Government has failed spectacularly to meet these obligations using varying delay tactics. This has invited much criticism from Members of Parliament, VCS and

religious groups alike. The Joint Committee on Human Rights has also expressed its dissatisfaction stating that, "A legislative solution can and should be introduced during the next parliamentary session. If the Government fails to meet this timetable, there is a significant risk that the next general election 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 of the Council of Europe condemned the UK's delay in granting votes to prisoners saying it "recognised the pressing need to take concrete steps to implement the judgment, particularly in light of upcoming UK elections which must take place by June 2010 at the latest". Given that the consultation closes in September, the Government will need to act with all haste to ensure that it meets its obligation to 'prevent violations in the future' and legislate in time for prisoners to take part in the election.

Given the foot-dragging that has been characteristic of the Government's approach so far, UNLOCK is pessimistic that this outcome will be achieved and is of the view that a remedial order is necessary to ensure compliance with the ECtHR ruling. We note that Lord Lester of Herne Hill has recently asked the Minister, Lord Bach whether the Government would consider using the remedial order process after the consultation was complete to which Lord Bach replied "We do not think that this is an appropriate issue for a remedial order; it is an appropriate issue for both Houses to decide whether and how this particular ruling of the European Court of Human Rights should be brought into force".

We would urge the Government to reconsider its response. If legislation is not in place by next spring, the general election may well be illegal.

We would encourage the Government to consider other countries which have recently altered their stance on prisoner enfranchisement. As recently as 2006, Ireland passed legislation to enable all prisoners to vote and in the same year Cyprus, which also previously had a blanket ban on voting for prisoners, passed legislation to provide for full enfranchisement of its prison population.

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

About you

Please use this section to tell us about yourself

Full name	Julie Wright
Job title or capacity in which you are responding (e.g. member of the public etc.)	Deputy Chief Executive
Date	31 July 2009
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If you would like us to acknowledge receipt of your response, please tick this box	<input 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.

I represent UNLOCK, the National Association of Reformed Offenders, a charity set up by, and for, reformed offenders. UNLOCK's President is Lord David Ramsbotham, its Chief Executive is Bobby Cummines (a former offender), and we are governed by a board of four trustees with a staff of five. We have a membership of over 4,500 who are mostly former offenders.
