

Llywydd

26 July 2019

Voting rights for prisoners

Dear Elin

Thank you for your response to our report on voting rights for prisoners. I am writing to seek some further clarity on next steps.

In your response, you state that it is the Commission's view that the decision as to whether the franchise in relation to prisoner voting should be changed "sits with the Welsh Ministers."

The Welsh Government have also responded, but have only done so in relation to the recommendations that we made towards them. A copy of this response is enclosed. They state, in response to recommendation 1, that the part concerning Assembly elections is "directed to the Llywydd and it would be for her, in the first instance, to respond to in the context of the Senedd and Elections (Wales) Bill."

We would now like to seek clarity on how the issues around prisoner voting and the Assembly franchise will be dealt with, and who will be responsible for this issue. We would appreciate a response by 18 September, to enable it to be considered as part of the Assembly debate on 25 September.

I am also writing to the Minister for Housing and Local Government about this issue.

I am copying this letter to the Chair of the Constitutional and Legislative Affairs Committee.

Yours sincerely



John

John Griffiths

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Enclosure: Welsh Government response to Voting Rights for Prisoners report.

Cc: Mick Antoniw, Chair, Constitutional and Legislative Affairs Committee



Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref - MA-P-JJ/2557/19

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19 July 2019

Dear John

Written Response by the Welsh Government to the report of the Equality, Local Government and Communities Committee entitled Voting Rights for Prisoners

I should like to thank you and the Equality, Local Government and Communities Committee for their valuable work in this emotive and important area of Voting Rights for Prisoners. The Committee's consideration of the oral and written evidence presented before them has produced an insightful report and recommendations. The accompanying response addresses the recommendations made, wholly or partly, to the Welsh Government only.

The Welsh Government has long supported the principle of at least some prisoners from Wales being enabled to vote in Welsh elections.

Your report identifies the key issues and quite properly highlights the strong views both for and against giving prisoners the vote. I note your comments about balancing the complex moral, ethical, legal and practical issues and I am grateful for the detailed interrogation of these issues which your Committee undertook in its inquiry.

The Committee's report and the evidence you compiled will certainly help inform the Welsh Government's consideration of the issues around legislating for prisoner voting for local

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

government elections. We shall work with all the stakeholders and partners, as identified in the report; in doing so we shall pay particular attention to providing as much reassurance as possible to victims and potential victims of crime.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

Julie James AC/AM

Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Detailed Responses to the recommendations of the report, Voting Rights for Prisoners, are set out below:

Recommendation 1

The Committee recommends that:

The Welsh Government and National Assembly for Wales Commission introduce legislation to give all those Welsh prisoners who are serving custodial sentences of less than four years the right to vote in devolved Welsh elections. Mohammad Asghar and Mark Isherwood do not agree with this recommendation.

Response: Accept

The Welsh Government believes that enabling at least some prisoners to vote will send very strong and positive messages to prisoners that they still have a stake in society and, in turn, that they have responsibilities towards society as a whole. Enfranchisement based on sentence length will strike a reasonable balance; we agree that a custodial sentence of four years is an appropriate threshold, which acknowledges the nature, gravity and circumstances of the offending. Accordingly, the Welsh Government will work to introduce legislation in this Assembly to enable prisoners from Wales serving a custodial sentence of less than four years to vote in devolved local government elections. We shall work closely with the UK Government and partners to implement such legislation. We estimate that some 1,900 prisoners out of a total of about 4,800 prisoners from Wales would be enfranchised.

The recommendation concerning Assembly elections is directed to the Llywydd and it would be for her, in the first instance, to respond in the context of the Senedd and Elections (Wales) Bill.

Financial Implications – The financial implications of providing for prisoner voting will be addressed as part of the negotiations which will take place with the UK Government.

Recommendation 2

The Committee recommends that:

If the general franchise is extended to 16 and 17 years olds, the Welsh Government and National Assembly for Wales Commission introduce legislation to give 16 and 17 year olds in custody the vote on the same basis as prisoners over 18 years old. Mohammad Asghar and Mark Isherwood do not agree with this recommendation.

Response: Accept

The Welsh Government is committed to extending the franchise for devolved elections to 16 and 17 year olds generally. In considering the case for 16 and 17 year olds in custody, we accept the Committee's recommendation. Treating such young people in custody differently from adult prisoners could cause confusion and administrative complexity. This would be the case particularly for those young people who had to transfer to adult prison to complete a sentence of four years or more, at which point they would have to be treated as an adult prisoner and, most likely, lose the right to vote. Accordingly, we shall work to introduce legislation in this Assembly to enable young people from Wales who are in custody and serving a custodial sentence of less than four years to vote in local government elections. We shall work closely with the UK Government and partners to implement such legislation. There are usually between 21 and 28 young people (aged up to 18 years) from Wales in custody.

The recommendation concerning Assembly elections is directed to the Llywydd and it would be for her, in the first instance, to respond in the context of the Senedd and Elections (Wales) Bill.

Financial Implications – The financial implications of providing for prisoner voting will be addressed as part of the negotiations which will take place with the UK Government.

Recommendation 3

The Committee recommends that:

Both the Welsh Government and the Assembly Commission commit to ensuring that any relevant legislation changing the franchise is in place at least six months before any election which is due to occur.

Response: Accept

The Welsh Government agrees that this is an entirely sensible precaution based on the advice of the Electoral Commission and Elections Administrators. The Welsh Government will work closely with all stakeholders and partners to ensure all relevant legislation will be in place before an election where prisoners and young people in custody are entitled to vote.

The recommendation concerning Assembly elections is directed to the Llywydd and it would be for her, in the first instance, to respond in the context of the Senedd and Elections (Wales) Bill.

Financial Implications – None – the staffing and administrative costs associated with making legislation will be absorbed within administrative budgets.

Recommendation 4

Is addressed to the Electoral Commission only.

Recommendation 5

The Committee recommends that:

The Welsh Government discuss and come to agreement with the UK Government to ensure all prisons with Welsh prisoners designate an Election Co-ordinator within the prison staff.

Response: Accept

The Welsh Government agrees that designating an Election Co-ordinator within the staff of each prison would be a sensible idea and would provide an important source of advice and support for prisoners seeking to exercise their right to register and to vote. The lack of evidence that prisoners currently eligible to vote actually exercise that right suggests that every prison should have an election co-ordinator, not merely those with prisoners from Wales. We shall follow up with the UK Government.

Financial Implications – Any financial implications will depend on the circumstances in each prison which accommodates eligible prisoners from Wales and will be the subject of future negotiations with the UK Government.

Recommendation 6

The Committee recommends that:

The Welsh Government and Electoral Commission pursue a Memorandum of Understanding with the UK Government and Prison Service to ensure that all eligible prisoners are registered to vote and are supported to take part in any elections for which they are eligible.

Response: Accept

The Welsh Government believes that the UK Government and Her Majesty's Prison and Probation Service should be doing this already for the prisoners currently eligible to vote. The lack of evidence that such prisoners exercise their right supports the case for having a Memorandum of Understanding so prisoners from Wales are able to participate in relevant elections at least. We shall follow up with the UK Government.

Financial Implications – None – the Welsh Government's staffing and administrative costs associated with negotiating a Memorandum of Understanding will be absorbed within administrative budgets.

Recommendation 7

The Committee recommends that:

The Welsh Government and National Assembly for Wales Commission introduce legislation for prisoners to register either at their last home address, the address they will be released to or via a declaration of local connection. In doing so they should ensure relevant safeguards are put in place to protect victims and potential victims of crimes.

Response: Accept in Principle

The Welsh Government will consider all elements of the recommendation. If an election takes place soon after conviction, the prisoner may still be registered at their home address; in addition, existing legislation (in section 7B of the Representation of the People Act 1983) already allows the existing categories of prisoners eligible to vote to register using a declaration of local connection. We would seek to legislate to enable prisoners from Wales to register on the same basis for relevant elections. Registration on the basis of a future address would be novel; a person's validity as an elector in a certain area has always been based on their residence in that area or having an established and demonstrable other local connection with that area. We shall need to examine whether it is practicable, particularly whether it would be compatible with the new canvass arrangements, and whether it is appropriate to introduce the facility for a single category of voter. We shall consult organisations representing victims to ensure necessary safeguards are built in to any new systems for registration.

Financial Implications – None – the staffing and administrative costs associated with making such legislation will be absorbed within administrative budgets. The costs of implementation will depend on discussions with the UK Government and electoral registration officers.

Recommendation 8

The Committee recommends that:

The Welsh Government and National Assembly introduce legislation to enable prisoners who are eligible to vote to do this either via postal or proxy voting. Discussions should take place with the UK Government to ensure that any logistical barriers are minimised.

Response: Accept

Prisoners currently eligible to vote, would be entitled to do so whilst still in custody via postal or proxy voting only. We see no reason to change this arrangement and would not introduce polling stations into prisons.

Financial Implications – None – the staffing and administrative costs associated with making such legislation will be absorbed within administrative budgets. The costs of implementation will depend on discussions with the UK Government. .

Recommendation 9

The Committee recommends that:

As part of the work in setting up a Memorandum of Understanding detailed in recommendation 6, the Welsh Government explores with the UK Government, how registered candidates, elected politicians and participating party representatives could have access to meet with prisoners.

Response: Accept

Much of this is already covered in Prison Service Order 4650, the Prison Service's existing guidance to prison governors about prisoner voting rights. The Welsh government will work with the UK Government to update the guidance.

Financial Implications – None – the costs will be part of the negotiation referred to under recommendation 6.

Recommendation 10

The Committee recommends that:

The Welsh Government discuss and seek agreement with the UK Government on providing access to Welsh media, both print and broadcast for those prisons with a sizable Welsh population.

Response: Accept

The Welsh Government understands that prisoners in prisons located in Wales have access to such media, but we accept the case for prisoners from Wales accommodated in prisons in England to have access also. We shall follow up with the UK Government.

Financial Implications – Any financial implications will depend on the circumstances of each prison and will be addressed in the discussions which will follow with the UK Government.

Recommendation 11

Is addressed to the Electoral Commission only.