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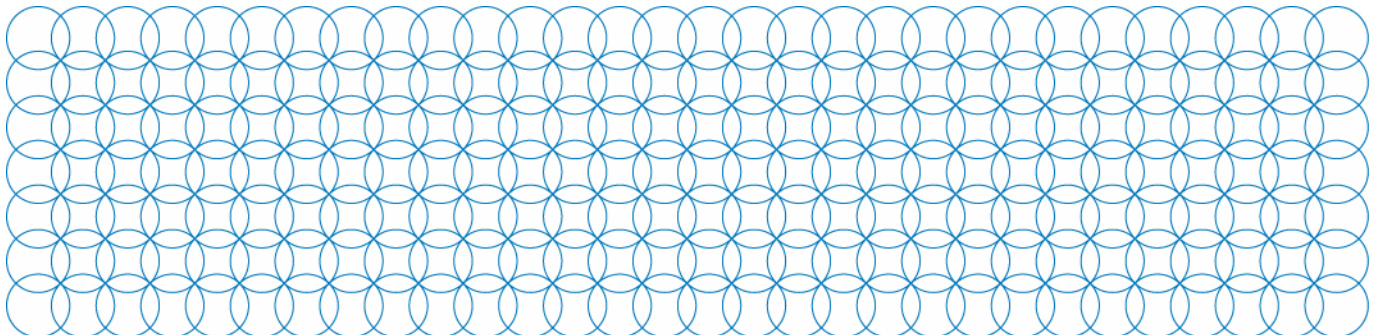
# **Voting Rights of Convicted Prisoners Detained within the United Kingdom**

## Second stage consultation

**Consultation Paper CP6/09**

Published on 8 April 2009

This consultation will end on 29 September 2009







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**JUSTICE**

# **Voting Rights of Convicted Prisoners Detained within the United Kingdom**

Second stage consultation

**A consultation produced by the Ministry of Justice.**

**This information is also available on the Ministry of Justice website:  
[www.justice.gov.uk](http://www.justice.gov.uk)**



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## Foreword

It has been the established policy of successive United Kingdom Governments that convicted prisoners should lose their right to vote for the period for which they are incarcerated. Currently, prisoners who are serving a custodial sentence in a place of detention within the UK are barred from voting under section 3 of the Representation of the People Act 1983 and related legislation.

In March 2004, this position - applying a general ban – was declared unlawful as a result of a successful challenge by a prisoner. The European Court of Human Rights (ECtHR), in the case of *Hirst v United Kingdom*, ruled that the statutory bar on voting by convicted prisoners was in breach of Article 3 of the First Protocol to the European Convention on Human Rights (ECHR), the right to free and fair elections. Following a reference by the UK Government, on 6 October 2005 the ECtHR's Grand Chamber upheld this ruling, in *Hirst v United Kingdom (No 2)*.

In response to the judgment, the Government announced that it would comply by embarking on a two-stage consultation process to find a solution which could command support in Parliament. The first stage of the consultation would consider the principles of prisoner enfranchisement and the options available for implementing the *Hirst v UK (No 2)* judgment. A second stage of consultation would then explore how any proposed change to current arrangements might work in practice. On 14 December 2006, the Government published its "first stage" consultation paper, *Voting rights of convicted prisoners detained within the United Kingdom*. In a written statement announcing the publication of the first consultation paper, the then Lord Chancellor, Lord Falconer of Thoroton, acknowledged that prisoners' voting rights was "a contentious issue".

This consultation paper meets the Government's commitment to conduct a second stage consultation on the detail of how the judgment might be implemented. However, as the opening sections of this paper illustrate, the responses to the first consultation were sharply divided, and in view of that and the relatively small number of respondents, this paper also revisits some of the questions from the first consultation about the degree to which prisoners should be enfranchised.

The first consultation paper also discussed the status of certain people detained in mental hospitals. After giving careful consideration to the responses received on this subject from the first consultation, we believe that it would be more appropriate to continue exploring this area of policy as part of a separate, further, consultation exercise. We intend to bring forward that separate consultation shortly.

After this consultation has concluded, the Government will consider the next steps towards implementing the judgment in legislation.

## Executive summary

1. The Department for Constitutional Affairs (DCA)<sup>1</sup> issued the first stage consultation paper on prisoners' voting rights – *Voting rights of convicted prisoners detained within the United Kingdom* – on 14 December 2006. The paper can be found at [www.dca.gov.uk/consult/voting-rights/cp2906.pdf](http://www.dca.gov.uk/consult/voting-rights/cp2906.pdf).
2. This consultation document:
  - explains the background to the question of prisoners' voting rights, including the ECtHR's ruling in *Hirst v UK (No 2)*;
  - summarises the responses to the first consultation paper;
  - outlines the Government's conclusions in the light of responses to the first consultation, and its proposals for how the judgment might be implemented.
3. Together with discussing how specific proposals could work in practice, as was originally intended, this paper revisits some of the questions from the first stage consultation paper on the principles relating to prisoners' voting rights. Having assessed responses to the first consultation stage, many of which did not indicate a clear preference for a particular approach to enfranchisement, the Government has concluded that it is necessary to re-examine key questions, including the question of precisely how it should be determined which convicted prisoners should retain the right to vote.
4. After carefully considering possible options and the responses to the first consultation, the Government has concluded that prisoners' right to vote should be determined on the basis of their sentence. Specifically, the Government considers that, taking into account a range of factors including legal and practical considerations, in order to implement the judgment one of the four options set out below for determining entitlement to vote should be pursued:
  - i. prisoners who have been sentenced to a period of less than 1 years' imprisonment would automatically retain the right to vote (subject to certain exceptions based on the type of offence for which they have been convicted). Prisoners sentenced to a term of 1 years' imprisonment or more would not be entitled to vote; or
  - ii. prisoners who have been sentenced to a period of less than 2 years' imprisonment would automatically retain the right to vote (subject to certain exceptions based on the type of offence for which they have been convicted). Prisoners sentenced to a term of 2 years' imprisonment or more would not be entitled to vote; or
  - iii. prisoners who have been sentenced to a period of less than 4 years' would automatically retain the right to vote (subject to certain exceptions based on the type of offence for which they have been convicted). Prisoners sentenced to a terms of 4 years' imprisonment or more would not be entitled to vote in any circumstances; or

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<sup>1</sup> The DCA alongside the National Offender Management Service formed the Ministry of Justice on 9 May 2007.



- iv. prisoners who have been sentenced to a period of less than 2 years' imprisonment would automatically retain the right to vote (subject to certain exceptions based on the type of offence for which they have been convicted). In addition, prisoners who have received sentences of more than 2 but less than 4 years could apply to be entitled to vote, but only where a Judge grants permission in their specific case. Prisoners sentenced to a term of 4 years' imprisonment or more would not be entitled to vote in any circumstances.
5. The paper invites views on these options. In addition, the paper invites views on other issues related to the entitlement of certain categories of prisoner to vote. In particular, the paper considers the following:
    - in the event that a degree of "judicial discretion" is applied, what role the sentencing court should have in determining a prisoner's right to vote, and how this would work in practice;
    - whether individuals convicted of certain offences, such as electoral fraud, or corrupt or illegal practices should not be permitted to retain the right to vote in any circumstances;
    - whether to grant voting rights to 'post-tariff' prisoners or those serving sentences of indeterminate length.
  6. The paper then discusses the practical issues that need to be dealt with in order to allow certain convicted prisoners to register and vote. The following points are considered:
    - registering prisoners to vote by using a special convicted prisoners' voting registration form attested by a designated prison official;
    - enabling convicted prisoners to register to vote through the 'rolling registration' route, by reference to a previous residence;
    - enabling prisoners to make a 'declaration of local connection' where there is no connection to a previous residence;
    - whether it would be preferable for prisoners to vote by post;
    - how prisoners' details should appear on the electoral register.

The full list of questions on which the Government wishes to consult is at page 36.

The respondents to the first paper are listed at Annex A.

An overview of the current law surrounding prisoner voting and electoral registration is outlined in Annex B.

## The context and purpose of this paper

The UK Government's consultation on prisoners' voting rights has been planned as a two-stage process. The first stage consultation paper, *Voting rights of convicted prisoners detained within the United Kingdom*, was published on 14 December 2006, and that consultation closed on 7 March 2007. This document opens the second stage of the consultation, which is due to close on 25 September 2009.

The paper summarises the responses to the first stage consultation. It sets out the Government's response, and questions for consultation follow each section on the Government's proposals and their possible implementation. They are repeated in full on page 36.

This consultation is being conducted in line with the Code of Practice on Consultation issued by the Cabinet Office and falls within the scope of the Code. The Consultation Criteria, which are set out on page 41, have been followed.

We were unable to publish the Impact Assessment with the consultation paper. We intend to publish it on the Ministry of Justice website shortly. Please refer back to the website.

Copies of the consultation paper are being sent to:

The Electoral Commission

The Association of Electoral Administrators

Victim Support

Victims Advisory Panel

The Survivors Trust

Women's Aid

Support After Murder and Manslaughter

Prison Reform Trust

Unlock, the National Association of Reformed Offenders

The Howard League for Penal Reform

Liberty

Justice

National Association for the Care and Resettlement of Offenders

Scotland Association for the Care and Resettlement of Offenders

The AIRE Centre

National Offender Management Service (NOMS)

Scottish Prison Service

Prison Officers Association  
Local Government Association  
Society of Local Authority Chief Executives and Senior Managers Lord Chief Justice  
Council of Circuit Judges  
Senior District Judge (Magistrates' Courts)  
The Magistrates' Association  
National Bench Chairmen's Forum  
Justices' Clerks' Society  
Sentencing Guidelines Council  
Association of Prison Governors  
Scottish Court Service  
Northern Ireland Court Service  
The Chief Electoral Officer for Northern Ireland  
Northern Ireland Prison Service  
The Equality and Human Rights Commission  
The Northern Ireland Human Rights Commission  
The Scottish Human Rights Commission  
The Scottish Assessors' Association  
Society of Local Authority Lawyers & Administrators in Scotland  
AEA – Association of Electoral Administrators (Scotland and Northern Ireland Branch);  
Convention of Scottish Local Authorities

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

## Background

Prisoners incarcerated within UK places of detention who have been sentenced following conviction for a criminal offence are presently barred from voting at elections across the United Kingdom. This bar is currently set by section 3 of the Representation of the People Act 1983 and related legislation.

In March 2004, the ECtHR, in the case of *Hirst v UK*, unanimously ruled that the maintenance of an absolute bar on convicted prisoners voting was in breach of Article 3 of the First Protocol to the ECHR, the right to free and fair elections. This followed a successful legal challenge by John Hirst, a prisoner who, in 1980, had been sentenced to a term of discretionary life imprisonment after pleading guilty to manslaughter. The UK Government asked for the case to be referred to the Grand Chamber of the ECtHR.

On October 6 2005, in the case of *Hirst v UK (No 2)(Application no. 74025/01)*, the Grand Chamber upheld the judgment by a majority of 12 to 5. The Court was clear in its judgment that it was for the UK Government to determine exactly where the balance should be struck in terms of deciding how far enfranchisement should be extended to prisoners: but the Court was also clear that the discretion afforded to Governments in complying with the ECHR did not extend to maintaining absolute disenfranchisement for all convicted prisoners. The Court's judgment means that some form of enfranchisement must be pursued.

The Government made clear in its response to the judgment that, although it continued to disagree that it was appropriate for the franchise to be extended to serving prisoners, it would embark on a process of consultation to help determine the most appropriate way to implement the judgment. The Government informed the Committee of Ministers, which supervises the implementation of ECtHR judgments by signatories to the ECHR, that it intended to approach the process of consultation in two stages. The first stage would consider the principles of prisoner enfranchisement and the options available to the UK following the judgment. The second stage was intended to be a more detailed public consultation on how voting rights might be granted to serving prisoners, and how far those rights should be extended.

The first stage consultation paper, *Voting Rights of Convicted Prisoners Detained within the United Kingdom*, was published on 14 December 2006. Briefly, in that consultation paper the Government sought views on the following issues:

- whether disenfranchisement should be linked to the length of sentence;
- whether those sentencing offenders should determine whether the right to vote should be withdrawn in addition to a custodial sentence;
- whether electoral offences serious enough to warrant a term in prison should attract the automatic penalty of disenfranchisement; and whether those prisoners detained in mental hospitals, who are either awaiting trial for an offence, or have been convicted, should be enfranchised. (For reasons stated below, this discussion is to take place in a separate consultation.)

- In his Written Ministerial Statement of 14 December 2006 announcing the publication of the first consultation paper, Lord Falconer noted that "the judgment decided that total disenfranchisement for all convicted prisoners was not within the terms of the [European] Convention."

The first consultation period closed on 7 March 2007. The Government has remained committed to publishing a second consultation document to consider how voting rights might be granted to serving prisoners, and how far those rights should be extended. As well as taking account of the results of the first consultation paper, in taking steps to implement the judgment the Government must act in a way compatible with its obligations under the European Convention on Human Rights: so any approach will need to be within the margin of appreciation afforded to signatory states in applying Convention rights. And the Government must take careful account too of the practical implications of enfranchisement for institutions where individuals are held, for the courts and for the effective delivery of elections.

After carefully considering how to proceed, it has been decided to widen the scope of this second consultation paper in order to revisit some of the areas that were discussed in the first stage consultation. The responses to the first consultation suggest strongly that there is a spectrum of opinion on the degree to which prisoners should be enfranchised – including whether they should be enfranchised at all – and how that should be determined. The Government has reached the preliminary conclusion that to meet the terms of the judgment a limited enfranchisement of convicted prisoners in custody should take place, with eligibility determined on the basis of sentence length. However, the precise terms of such a scheme will need to be defined, and the Government has decided to consult on options for how that might best be achieved. This document also fulfils the commitment to consult on the approach towards how the enfranchisement of prisoners would operate in practice.

Partly due to the widening of the scope of the second stage consultation paper, but also from the less than conclusive results on this topic from the first consultation paper, we have decided to continue exploring questions relating those detained under mental health legislation as part of a separate consultation exercise. This further consultation exercise will be announced shortly.

The following section of this paper summarises the responses to the first consultation document, before reviewing each specific question in detail. The Government's response and its proposals for consideration are then set out, beginning with the section entitled *The way forward: the second stage consultation*.

## **The first stage consultation: summary of responses**

A total of 88 responses were received to the first stage consultation paper. Of these, 40 were from members of the public, 14 from lobby or interest groups, 6 from religious individuals and organisations, 4 from local authorities, 7 from individual academics and learning institutions, and the remaining 17 from a range of groups and individuals. These included responses from the Association of Electoral Administrators, the Electoral Commission, political parties and anonymous respondents.

The Government recognises that the issues raised by the first consultation paper are complex, and this was reflected in the heavily polarised nature of the responses. On the question of how far the franchise should be extended to convicted prisoners in custody, the majority of respondents made strong representations for the introduction of either full enfranchisement (41 responses, or approximately 47 per cent), or continuing with the UK's current policy of total disenfranchisement (22 responses, or 25 per cent); and many respondents made no comment or gave a 'not applicable' answer to many of the questions.

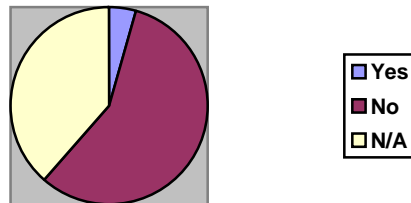
## Responses to questions posed in the first stage consultation document

### Q1: Do you support the proposal that enfranchisement of detained prisoners should be determined by reference to the length of sentence they receive?

Responses to this question reflected the highly polarised nature of opinions held on the issue of prisoners' voting rights. 50 respondents rejected such a system and 34 responded with a 'not applicable' or 'no comment' answer. However, many of the respondents qualified their 'no' answers with statements to the effect that either all prisoners should be enfranchised, or that the UK's current policy of a blanket ban should continue.

Of the 4 respondents who favoured a system of enfranchisement based on sentence length, 2 were from members of the public. The other responses in favour were from a Scottish Electoral Registration Officer and a local authority respectively. From the responses given by 14 interested groups and organisations that expressed an opinion,

#### Q1. Enfranchisement based on sentence length



13 were in favour of full enfranchisement. One lobby group agreed with the views of this group of respondents in advocating full enfranchisement on the basis that prisoners remained citizens while in custody, and that the deprivation of liberty, rather than removal of the franchise, was their punishment.

Those religious organisations and individuals that responded were also inclined towards the introduction of full enfranchisement, although several expressed reservations towards those convicted of very serious crimes or electoral offences. Of the 40 members of the public that responded, there was an even split of 15 respondents in favour of retaining the blanket ban and 15 favour of enfranchising all prisoners. 3 out of 4 anonymous respondents also advocated retaining the current rules.

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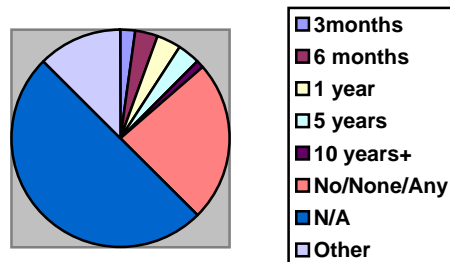
### Q2: What length of sentence do you consider appropriate as the threshold above which prisoners will be disenfranchised? Please give reasons for the threshold you suggest.

Further to the answers offered on question 1 to the effect that many respondents advocated either full enfranchisement or a total retention of the bar, this question had a

large number of 'not applicable' or 'no comment' responses: 44 such responses, or 50 per cent of the total. Suggestions that either any or no length of sentence should result in prisoners being disenfranchised were made in 21 responses, or 24 per cent of the total.

However, whilst only 4 respondents had stated that they were in favour of the franchise being based on sentence length, 12 respondents did suggest a potential length of sentence if such a system was implemented. Of this group, suggestions ranged between 3 months (2 respondents), 6 months (3 respondents), 1 year (3 respondents), 5 years (2 respondents), and not less than 10 years (1 respondent). 10 respondents offered

## Q2. Suggested length of sentence



alternative suggestions, ranging from a system based on disenfranchisement applying to prisoners convicted of very minor offences, to its retention only for the most serious offences and those prisoners serving a life sentence.

A Government agency suggested that from a purely administrative perspective, either a threshold of 6 months or full enfranchisement would be preferable. A local authority and 2 members of the public suggested 1 year. A Member of the Scottish Parliament (MSP), who was then a shadow justice minister for the Scottish National Party, suggested 3 months, as did 1 anonymous respondent.

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**Q3: Should the decision to either grant or withdraw voting rights from convicted prisoners be made by UK sentencers on a case by case basis, at the time of sentencing? Please give reasons to support your view, e.g. if you do not believe sentencers should be given a power to determine voting rights, is this because you believe it would place an unjustifiable burden on sentencers?**

**Q4: If the Government were to follow this approach, which variant do you favour?**

**that statute should provide that convicted and sentenced prisoners should automatically lose their right to vote, but subject to the sentencing judge's right to specify that they shall be entitled to retain that right.**

**or**

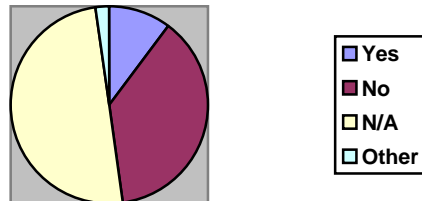
**that statute should remove the general rule of disenfranchisement of sentenced prisoners, but should confer on sentencing judges the right to disqualify sentenced offenders.**



44 responses, or 50 per cent of the total, gave a 'no comment' or 'not applicable' answer to Question 3, and 52 replied in the same way to Question 4. Of those who expressed an opinion, 9 respondents – approximately 10 per cent – were in favour of giving the decision on enfranchisement to sentencers. However, 33 responses, or 37.5 per cent, were opposed to such a system. A member of the public stated that the sentencer should decide only in very exceptional cases, whilst an academic suggested that involving the sentencing court would keep the issue of prisoners' voting rights in the public view.

Arguments in favour of giving the decision to sentencers included the view that this would be an acceptable interpretation of the ECtHR's judgment. Those opposed to such a system generally suggested that it would represent an unnecessary additional burden on sentencers, and that for an issue as important as making changes to the franchise, Parliament should make the decision.

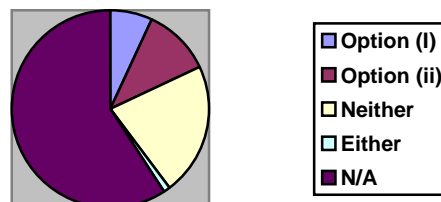
**Q3. Enfranchisement at discretion of sentencers**



The option of having a 'default position' of enfranchisement unless a judge removed the right to vote was slightly more popular (with 10 responses or around 11 per cent in favour), than a 'default position' of disenfranchisement unless a judge ruled otherwise, (with 6 responses or around 7 per cent in favour). 1 response suggested that either 'default' position would be a workable option. However, 19 responses suggested allowing the courts to have discretionary powers to enfranchise or disenfranchise prisoners would not be acceptable.

A former Chief Inspector of HM Prison Service suggested that, although he was in favour of full enfranchisement, sentencers could have powers to disenfranchise individuals convicted of certain specified crimes.

**Q4. Powers for sentencers to enfranchise/disenfranchise**



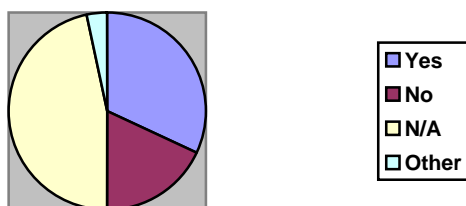
**Q5: Should offences specifically related to the electoral process automatically attract a withdrawal of the franchise? Please provide reasons to support your answer.**

A total of 44, or 50 per cent, of all respondents answered this question. Of these, there was more support for maintaining disqualification for prisoners guilty of electoral offences (28 responses, or 32 per cent) than opposition to it (16 respondents or 18 per cent).

Those respondents who supported retaining a total ban on voting rights for those prisoners convicted of electoral offences stated that such a punishment was appropriate to the crime itself. It was felt that such offenders have little regard for the democratic process and should therefore forfeit the right to take part in it. Counter arguments included the point that having the vote would be a reminder to such convicted prisoners of the proper democratic process that they have abused.

The Electoral Commission's response stated that it is in favour of retaining the bar on registering, voting or standing for election for those prisoners convicted of electoral offences. However, it argued that this should not be an automatic bar, but should be at the discretion of sentencers.

**Q5. Election offences as specified  
offences entailing disenfranchisement**



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**Q6: Should any voting rights given to prisoners detained in mental hospitals be determined on the same basis as ordinary prisoners, or are there any categories that should be treated exceptionally? Please list those categories and give reasons.**

**Q7: If your answer to question 6 was no, do you consider that any categories of detained offenders in mental hospitals should be enfranchised?**

The level of support for changes to voting rights for prisoners detained in mental hospitals among those responding to the consultation was not clear, since the majority of respondents chose to submit a 'not applicable' answer. This may be partly due to respondents having already made arguments for and against the enfranchisement of prisoners more generally in their answers to earlier questions. It may also reflect limited knowledge or understanding of the different categories of detained mental health patients, and of mental health policy in general, beyond those who are closely involved with it on a personal or professional basis.

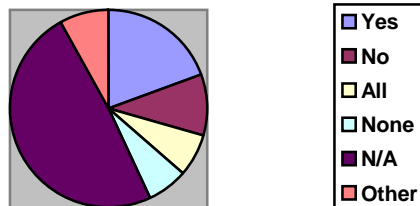
A professional body's response argued that mental health patients should not be treated differently from any other categories of prisoners, and that all should be given the franchise.

2 respondents suggested that any person who is detained under the Mental Health Act 1983 should lose their voting rights.

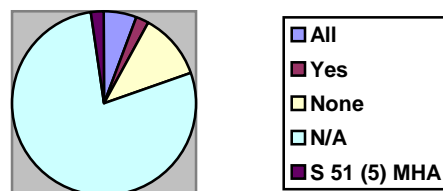
In relation to Question 7, 69 respondents, or 78 per cent of the total, either gave no response or referred back to their previous answer to question 6. 9 respondents replied 'no' to question 6, indicating that the voting rights of prisoners detained in mental hospitals should not be determined on the same basis as 'ordinary' prisoners. However, those respondents did not give substantive arguments in favour of treating such individuals differently or refer to any specific categories of prisoners detained in mental hospitals, as set out under Annex B of the first stage consultation document.

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**Q6. Mental health patients given same voting rights as prisoners**



**Q7. Categories of mentally disordered offenders enfranchised**



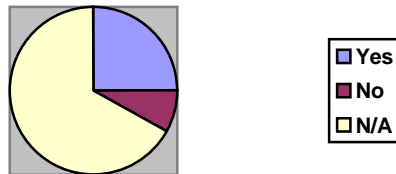
**Q8: Should any of the circumstances covered by the statutory provisions referred to in Annex B (the status of voting rights of categories of persons detained in mental hospitals) more properly be aligned with the position of pre-conviction remand prisoners?**

This question also attracted a high number of 'not applicable' answers, 59 of the total. 19 respondents supported the proposal to extend to any remanded offenders detained in mental hospitals who were not covered by the reforms made by the Representation of the People Act (RPA) 2000 the same voting rights as all ordinary remand prisoners received through that Act.

Of the 7 respondents that indicated they did not believe that the remaining categories of remand offenders detained in mental hospitals (who were not enfranchised by the RPA 2000 reforms) should be given the vote, 6 were from members of the public and 1 was from a local authority. No specific arguments were made for retaining the current disenfranchisement of remand prisoners detained in mental hospitals.

An academic respondent also suggested that any person detained under section 44 of the Mental Health Act 1983 should be enfranchised, as although their case has been heard by a magistrates' court, they have not yet been sentenced by the Crown Court to which their case has been referred.

**Q8 - Remand prisoners detained  
in mental hospitals treated same  
as in prison**



## The way forward – the second stage consultation

The Government has given careful consideration to how it should proceed in the light of the judgment of the European Court of Human Rights and the results of the first stage consultation. The responses to the first consultation suggest strongly that there is a spectrum of opinion on the degree to which prisoners should be enfranchised – including whether they should be enfranchised at all – and how that should be determined. The analysis set out in the summary of responses to the first consultation shows that there are a number of areas where views are polarised, or where consultation respondents did not express a view.

As well as taking account of the results of the first consultation paper, in taking steps to implement the judgment the Government must act in a way compatible with its obligations under the European Convention on Human Rights: so any approach will need to be within the margin of appreciation afforded to signatory states in applying Convention rights. And the Government must take careful account too of the practical implications of enfranchisement for institutions where individuals are held; for the courts; and for the effective delivery of elections.

In the light of these considerations, and given the serious and difficult issues at stake, the Government has reached the preliminary conclusion that to meet the terms of the judgment a limited enfranchisement of convicted prisoners in custody should take place, with eligibility determined on the basis of sentence length. Although few respondents actively agreed with a system of enfranchisement based on sentence length, many respondents did not engage with the question given their support for either full enfranchisement or retaining a total ban; and nor was there a clear expression of support for the alternative approach of the decision being handed to sentencers.

In reaching this view, the Government has taken account not just of the sharply polarised views on the issue – and the fact that any approach is likely to meet with disagreement from a range of perspectives – but also of legal and practical considerations. A system that places the decision on enfranchisement or disenfranchisement completely upon the sentencing court would impose considerable burdens both on the courts and on institutions where individuals are held in custody. Fundamentally, however, the Government agrees with the argument that ultimately Parliament must debate and decide on the extent of the franchise.

In view of this background – and acknowledging that the final decision will be made by Parliament – this second stage consultation document invites views not just on the practical issues surrounding implementation of the judgment but on precisely what sentence length would be appropriate. The Government has, however, taken a view on the parameters for that. In its first stage consultation on this issue, the Government stated that:

“Setting the threshold for disenfranchisement low (e.g. a sentence length of 3 months or less), is likely to disenfranchise all but those convicted of the most minor offences or “petty” crimes. The Government is not inclined to consider extending the eligible length of sentence beyond low sentence lengths, such as one year in prison.”

The Government remains of this view, but having settled on sentence length as the basis for a system of partial enfranchisement, recognises that there is a range of points along a spectrum at which the line may be drawn in a way that is proportionate. Bearing in mind the principled basis upon it which has been decided to proceed, namely that a prisoner's entitlement to vote should be aligned to the seriousness of the offence they have committed, and that, as set out in the first consultation, a low sentence length may not be deemed proportionate, the Government is prepared to consider:

- the retention of the right to vote by prisoners who have been sentenced to a period of less than 1 year of imprisonment; or
- the retention of the right to vote by prisoners who have been sentenced to a period of less than 2 years' imprisonment; or
- the retention of the right to vote by prisoners who have been sentenced to a period of less than 4 years' imprisonment; or
- the retention of the right to vote by prisoners who have been sentenced to a period of less than 2 years' imprisonment, coupled with a facility for prisoners who have received sentences of between 2 and 4 years to apply to their sentencing court to be enfranchised. This would require the framing of clear guidelines for sentencers to ensure a consistent approach.

The Government will not consider proposals to enfranchise prisoners who are sentenced to 4 years' imprisonment or more.<sup>2</sup> The Government has also concluded that it does not wish to extend voting rights to those prisoners serving life or other indeterminate sentences, including cases where they are "post-tariff" prisoners (who will have served the minimum term imposed by the judge but remain in custody as the Parole Board has not considered them safe to be released). That is on the basis that the judgment of the ECtHR does not, in the Government's view, require the enfranchisement of such individuals, and the Government continues to believe that the seriousness of the original offence in such cases and the continued danger that such individuals pose to the public is such that it would not be appropriate to extend the franchise to individuals from whom, in the view of the Parole Board, society still needs to be protected. In addition, the Government considers that it would be right to disenfranchise those convicted following prosecution for electoral offences irrespective of their length of sentence: the Government agrees with the argument that such a punishment is proportionate to the offence of abusing the democratic process, and the Government notes the higher level of support for this by respondents when compared to the general question of all prisoners' voting rights.

The remainder of this consultation document invites views on these questions of principle about the circumstances in which a convicted prisoner should be entitled to retain the right to vote. It also considers detailed questions about how registration and voting for convicted prisoners would operate in practical terms.

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<sup>2</sup> Although the Criminal Justice Act 2003 formally abolished 4 years' imprisonment as being a distinction in sentencing policy terms between 'less serious' and 'serious' offences, in lay terms it may still be argued that it is still relevant as a dividing line, i.e. where a court has determined that the offence warrants a custodial term of 4 years, this will signify that the circumstances of the offence are sufficiently serious to warrant that length of custodial term.

## Options for prisoner enfranchisement

The United Kingdom has a “margin of appreciation” in responding to the *Hirst (No 2)* judgment. The UK Government is not obliged to take a specific route prescribed by the Court, e.g. to enfranchise all, or certain categories of, prisoner. The Government has consistently been clear that it disagrees that it would be appropriate for the franchise to be extended to all serving prisoners. In the case of *Hirst (No 2)*, it has argued that there are sound reasons underpinning the removal of the right to vote from serving prisoners. The removal of the right to vote, on a temporary basis limited to the period of an offender’s detention, pursues a number of intertwined aims designed to foster a healthy democratic society. The removal of the right to vote involves an additional element of punishment, which, because it persists for the period of detention, is directly linked to the seriousness of the offence and the circumstances of the offender.

But the removal of the right to vote – which the Government recognises is a serious step – is not only a punitive measure. It is different in nature and purpose to a prison sentence because it goes to the essence of the offender’s relationship with democratic society. Its removal underlines to the prisoner the importance of that relationship, and his breach of it in committing a serious crime. The re-instatement of the right marks his re-entry into society and is aimed at enhancing his sense of civic responsibility and respect for the rule of law. The Government, of course, accepts, in line with the judgment, that any limitation upon the right must be proportionate, but it remains the Government’s strong view that these aims continue to justify the removal of the right to vote in the case of some offenders.

Accordingly the Government will act to implement the judgment in a way that is both compatible with the UK’s obligations under the European Convention on Human Rights and which pursues these aims. The Government must also take account of the practical implications of enfranchisement for institutions where individuals are held; for the courts; and for the effective delivery of elections.

The Government invites views on the options for the enfranchisement of prisoners; the principles that underpin those options; and the practical choices to be made in delivering each of the options. This includes views on how far any practical implications should be taken into account in deciding which of the options should be adopted to implement the court’s judgment in *Hirst (No 2)*.

### The proposals

In the light of these considerations the Government has reached the conclusion that to meet the terms of the judgment the most appropriate approach would be to undertake a limited enfranchisement of convicted prisoners in custody with eligibility determined on the basis of sentence length. Although few respondents to the first stage consultation document actively agreed with a system of enfranchisement based on sentence length, many respondents did not engage with the question given their support for either full enfranchisement or retaining a total ban; and nor was there a clear expression of support for the alternative approach of the decision being handed to sentencers.

The Government considers that, in general, the more serious the offence that has been committed, the less right an individual should have to retain the right to vote when sentenced to imprisonment. Tying entitlement to vote to sentence length would have the benefit of establishing a clear relationship between the seriousness of the offence, or offences, and suspension of the right to vote. The Government believes it would also be more administratively straightforward to achieve than leaving discretion to the sentencer. In addition, the Government is obliged to take account of the degree to which any sentence length chosen as the “cut off” point is compatible with the ECHR. In determining the length of a custodial sentence, sentencers take into account the nature and gravity of the offence and, in most cases, the individual circumstances of the offender. Under these proposals, the suspension of the right to vote will only occur where those factors are such as to have led a sentencer to conclude not only that the offence is such as to warrant a custodial sentence rather than some other form of punishment, but also that a term of a some length is appropriate.

Taking account of these considerations, the Government is therefore prepared to consider four potential options for linking enfranchisement to sentence length:

- i. prisoners who have been sentenced to a period of less than 1 years’ imprisonment would automatically retain the right to vote (subject to certain exceptions based on the type of offence for which they have been convicted). Prisoners sentenced to a term of 1 years’ imprisonment or more would not be entitled to vote; or
- ii. prisoners who have been sentenced to a period of less than 2 years’ imprisonment would automatically retain the right to vote (subject to certain exceptions based on the type of offence for which they have been convicted). Prisoners sentenced to a term of 2 years’ imprisonment or more would not be entitled to vote; or
- iii. prisoners who have been sentenced to a period of less than 4 years would automatically retain the right to vote (subject to certain exceptions based on the type of offence for which they have been convicted). Prisoners sentenced to a terms of 4 years’ imprisonment or more would not be entitled to vote in any circumstances; or;
- iv. prisoners who have been sentenced to a period of less than 2 years’ imprisonment would automatically retain the right to vote (subject to certain exceptions based on the type of offence for which they have been convicted). In addition, prisoners who have received sentences of between 2 and 4 years could apply to be entitled to vote, but only where a Judge grants permission in their specific case. Prisoners sentenced to a term of 4 years’ imprisonment or more would not be entitled to vote in any circumstances.

The Government remains inclined toward setting the threshold toward the lower end of the spectrum of these options, but welcomes views on all of the options in response to this consultation, taking into account the stated aims of the Government set out above, the seriousness of the offence committed, and the need to implement the judgment in a proportionate manner. There are number of further points relating to these options on which it would welcome consultees’ views. These are set out below.



### *Calculation of sentence length*

Whichever option is pursued, the Government intends that, where prisoners are serving more than one sentence, the overall term of imprisonment to be served would be taken into account for the purposes of determining whether they should retain the right to vote once convicted.

### *Implications of judicial discretion under option iii. above*

Options i., ii., and iii. above would set clear rules on the point at which the length of an individual's sentence would mean that they were ineligible to vote – a sentence, or sentences totalling, either 1, 2 or 4 years' imprisonment or above. Option iv. would supplement a clear rule that an individual would retain the right to vote if sentenced to less than two years' imprisonment with an element of discretion for a Court to allow for highly specific circumstances in individual cases, to permit an individual to retain the right to vote if they are sentenced to more than 2, but less than 4, years' imprisonment.

Although it might be argued that an element of discretion for the sentencer would give still greater flexibility to tailor entitlement to vote to individual circumstances, it would also raise practical issues:

- a decision would need to be reached as to whether the default position should be that prisoners sentenced to more than 2 but less than 4 years' imprisonment were disenfranchised unless a Court agreed to allow them to retain the right to vote on application; or (in a variant to the options framed above) that such individuals should retain the right automatically unless a Court deprived them of it. Most respondents to the first consultation did not express a view on this question, although some responses were received in favour of each of these positions;
- consideration would need to be given as to how decisions on whether to allow a prisoner sentenced to more than 2 but less than 4 years' imprisonment to continue to vote would be reached. Guidelines would need to be developed to ensure consistency and fairness. In procedural terms, the most appropriate point at which to deal with any "optional" enfranchisement would be likely to be at the time of sentencing. The alternative would be for prisoners to apply to a court after sentence has been passed (through their legal representatives if available). This is, however, likely to be more resource intensive;
- the Government would need to consider whether some form of transitional provision would be needed to deal with the question of entitlement to vote for prisoners serving a sentence of more than 2 but less 4 years at the time of implementation of such an approach.

### **Other issues**

In line with its view that the more serious the offence that has been committed, the less right an individual should have to retain the right to vote when sentenced to a period of imprisonment, the Government does not intend to permit the enfranchisement of prisoners who are sentenced to 4 years' imprisonment or more in any circumstances.

The Government believes that this is compatible with the ECtHR ruling in *Hirst (No 2)*.

#### *The position of post-tariff and Indeterminate Public Protection (IPP) prisoners*

Some prisoners are sentenced to life imprisonment or other forms of indeterminate sentence. In such cases, the sentencing judge will decide on a minimum term, or tariff, that prisoners must serve for the purposes of punishment. Once this has been served, prisoners will be technically eligible for release. However, they will only be released if the Parole Board considers that it is safe for that to happen. If the Parole Board considers that the prisoners still represent a real risk of serious harm to the public, then it will keep them in prison. The most dangerous prisoners may never be released.

The Government believes that it would not be acceptable to differentiate between the 'tariff' and 'post-tariff' (i.e. punitive and preventative) part of the sentence, and does not propose to extend voting rights to post tariff-prisoners. That is on the basis that the judgment does not, in the Government's view, require the enfranchisement of such individuals, and the Government's continues to believe that the seriousness of the original offence in such cases, and the continued danger that such individuals pose to the public, is such that it would not be appropriate to extend the franchise to those individuals while they remain in prison.

#### *Prisoners convicted of certain types of offences*

The first stage consultation paper sought views on whether offences specifically related to the electoral process should automatically attract a withdrawal of the franchise. Of the 44 (50 per cent) respondents answering this question, 28 responses (32 per cent) favoured this; and 16 (18 per cent) opposed it. The Government has concluded that it would be appropriate to bar any individual convicted of an offence connected with the electoral process.

Those respondents who supported retaining a total ban on voting rights for those prisoners convicted of electoral offences stated that such a punishment was appropriate to the crime itself. It was felt that such offenders have little regard for the democratic process and should therefore forfeit the right to take part in it. Counter arguments included the point that having the vote would be a reminder to such convicted prisoners of the proper democratic process that they have abused.

### **The number of prisoners likely to be affected by these proposals**

A person's entitlement to vote in the UK will depend on the election concerned. Broadly speaking, in order to be able to vote, a person must be aged 18 or over on polling day and a British citizen. Additionally, Irish and qualifying Commonwealth citizens<sup>3</sup> are entitled to vote as British citizens when resident in the United Kingdom. EU citizens living in the UK can vote in all elections except UK Parliamentary general elections.

The franchise varies from election to election, and throughout the UK, and it is for Electoral Registration Officers to determine individual applications for registration to

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<sup>3</sup> Qualifying Commonwealth citizens are those persons who have leave to enter or remain in the UK; or do not require such leave.

vote. However, the below provides a broad indication of the number of prisoners that could be enfranchised as a result of our proposals.

As at February 2009, there were 63,600 sentenced prisoners aged 18 or over in prisons in England and Wales, who were British, Irish Republic, Commonwealth or other EU nationals.<sup>4</sup> This figure excludes remand prisoners (who are already eligible to vote), but includes those who are serving indeterminate sentences.

Of that total figure, 6,700 were serving sentences of less than 1 year, 7,200 were serving sentences of 1 year or more but less than 2 years, and 14,900 were serving sentences of 2 years or more but less than 4 years. Therefore:

- If we were to enfranchise all prisoners serving less than one year, approximately 6,700 prisoners would be enfranchised for some or all elections (or 11% of the 63,600 total).
- If we were to enfranchise all prisoners serving less than two years, approximately 13,900 prisoners would be enfranchised for some or all elections (or 22% of the total).
- If we were to enfranchise all prisoners serving less than four years, approximately 28,800 prisoners would be enfranchised for some or all elections (or 45% of the total).

### **Questions from this section (full list on page) 36**

**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 1 year; or**

**(b) retain the right to vote if they are sentenced to a term of imprisonment of less than 2 years; or**

**(c) retain the right to vote if they are sentenced to a term of imprisonment of less than 4 years; or**

**(d) retain the right to vote if they are sentenced to a term of imprisonment of less than 2 years, but be able to apply to a Court to retain the vote if they are sentenced a term of imprisonment of between 2 and 4 years?**

**Please give reasons for your answer.**

**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 2 and 4 years' imprisonment are disenfranchised unless a Court agrees to allow them to retain the right to vote on application; or that such individuals should**

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<sup>4</sup> Source: *Analysis of prison population data by Prison and Probation Statistics team, OMSAS*. The total of 63,600 sentenced prisoners (age 18 and above) includes 58,700 UK, 3,100 Commonwealth and 1,900 EU nationals (breakdown does not sum exactly to the total because all numbers have been rounded to nearest 100). The figures for Commonwealth nationals are likely to include some non-qualifying Commonwealth citizens, who would not be eligible to vote. It is noted that these figures are for England and Wales only.

**retain the right automatically unless a Court deprived them of it? Please give reasons for your answer.**

**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?**

## How registration and voting would operate

It is the Government's view that, wherever possible, all those entitled to vote should be treated equally. There will, however, necessarily be some differences to or modifications of the approach that is taken to the practicalities of registration and voting arrangements for individuals held in custody, given the fact that they are detained. As with other citizens, the responsibility is on the individual to register to vote, and to vote.

Certain groups held in custody, in particular prisoners held on remand, are already entitled to vote. Briefly, in practical terms such prisoners are able to exercise their vote as follows:

They may be registered to vote at the home address where they would be living, were they not in custody during the annual voting canvass, or through a 'declaration of local connection,' explained later in this section.

If they are already registered and wishing to vote, remand prisoners generally need take no action until an election is announced and then apply promptly for an 'absent vote' (in the same way that those who are not imprisoned may do) to their local Electoral Registration Officer.

Remand prisoners may apply to vote by post, or by proxy. In the former case, it should be noted that the principle of the secret ballot is preserved whilst maintaining the discretion of the prison authorities to open and examine the contents of prisoners' mail. If an application for a proxy vote is accepted by the prisoner's Electoral Registration Officer, a proxy voter's poll card will be sent to the appointed proxy.

### Arrangements for registering to vote

#### *Background*

Under the Representation of the People Act 1983, those entitled to vote at UK Parliamentary, and local government elections are those who have attained the age of 18 and who are British citizens, citizens of Commonwealth countries who do not require leave to enter or remain in the UK, and citizens of the Republic of Ireland. In practical terms, registration to vote in Great Britain<sup>5</sup> is achieved by the following methods:

- i. completion of the household annual canvass form. The Electoral Registration Officer (ERO) for a constituency (or part of a constituency) is required to carry out an annual canvass in relation to the area for which he acts to establish who is entitled to be, or to remain, registered<sup>6</sup>. The ERO may require any householder or owner or occupier of premises in their area to give information required for the purpose of carrying out registration duties, and failure to comply with a request for information

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<sup>5</sup> This paper considers the position on registration in Great Britain. Different arrangements operate in Northern Ireland.

<sup>6</sup> Section 10 of the Representation of the People Act 1983.

or the giving of false information is an offence. There is an obligation to complete the household canvass form accurately and return it to the ERO. The 'reference' date for the annual canvass is 15 October, and it enables the ERO to determine whether a person's entitlement to register should be included on the revised register. The final full updated electoral register published before this date by the registration office is completed on 1 September; and the first post-canvass register completed on 1 December. A canvass is not, however, presently concerned with the registration of persons resident in a penal institution;

- ii. 'rolling registration,' whereby a person may make an application to be registered at any time<sup>7</sup>. An application for registration as a Parliamentary or local government elector or both must state the address in respect of which the applicant applies to be registered and at which he is resident on the date of the application. The rolling registration form must be completed on an individual basis.

#### *Procedure for registering prisoners to vote – options*

There appear three practical options for allowing prisoners to apply to be registered to vote:

- (a) for each prison governor to compile a 'household' canvass form for the penal establishment, listing prisoners entitled to vote;
- (b) for the head of a household to include qualifying prisoners on the annual canvass form at the address at which they would have been resident if they were not incarcerated at that point;
- (c) for 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.

Option (a) is impractical for a number of reasons. The electoral register in Great Britain is not a single document but a collection of over 400 registers maintained by individual local authority EROs: prisoners in a given penal establishment may potentially come from a wide range of local authority areas, and so there is no single point to which a form containing the details of all eligible prisoners in one prison could be sent. In theory, that could be dealt with by sending a copy of the form to all of the relevant local authorities, although that would entail a significant administrative burden for the prison and involving sharing data more widely than is necessary for the purposes of registration. An additional practical difficulty would be posed by the fact that the movement of prisoners around the prison estate is such that it would be extremely difficult for 'single' household forms covering an entire prison to be compiled quickly enough to reflect the position in a given establishment accurately.

The most significant practical difficulty with option (a), however, is that because the household canvass form is only completed annually by reference to a specific date (15 October) and its conduct is at the discretion of individual local authorities, this mechanism would potentially not pick up prisoners who, due to transit across the prison

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<sup>7</sup> Section 10A of the Representation of the People Act 1983.

system, fell between the data collection exercises in a number of different prisons. A possible solution would be to require the Prison Service to maintain prisoners' electoral registration details through rolling registration following the annual canvass, to ensure that a postal or proxy vote is correctly issued should an election be called. But this would entail a significant administrative burden on the Prison Service – and would go further than the arrangements that exist for electors more generally, since the onus is on individuals to register to vote when they change address.

Option (b) would enable prisoners to be registered by the head of the household at the address at which they resided before incarceration. However, this system has a number of potential flaws. It makes an assumption that the prisoner lived with a partner, family member or friend before sentence; yet there will be prisoners who had lived alone or are considered no longer resident at a property. In addition, in households where a prisoner is expected to return upon release there is a possibility that the head of that household who is charged with completing the canvass form may not understand whether the prisoner is eligible or not. Therefore an ineligible prisoner may unwittingly be added or an eligible prisoner omitted from the canvass form. In the absence of any checking process the ERO would simply have to accept the information provided on the form.

Option (c) would avoid these difficulties. The onus would be placed on individual prisoners to register to vote. The prison authorities could make application forms available within the prison, as part of the process of inducting prisoners into life in custody. This would avoid the prison authorities having to “track” enfranchised prisoners either within prisons or across the estate. Administrative measures would have to be put in place to ensure that in practice prisoners would be able to register and cast their votes, and that their rights are not merely theoretical.

#### *Where should prisoners be entitled to be registered to vote?*

Since entitlement to vote is based on residence, a decision will need to be made on where a prisoner should be entitled to register to vote, and where their vote would therefore be cast. The options are:

- i. that prisoners should be entitled to register in the local authority area where their place of detention is located; or
- ii. that prisoners should be entitled to register in the local authority area where they were last resident before imprisonment.

The Government believes that there are significant disadvantages to allowing prisoners' votes to be counted toward the results in a constituency in which the place of detention is located. This would risk election results being determined on the basis of where prison accommodation was sited. In addition, and – given that there is no guarantee that an individual would be imprisoned in the local authority area where they had previously lived, or that they would remain in a single establishment for the duration of their sentence – this could potentially lead to votes being cast in constituencies where the individual voting had no connection with the area.

For these reasons, the Government's view is that the address the prisoner should give on the registration form, and where their vote would therefore count, should be the address at which they last resided before they were imprisoned, and/or will reside when

they leave prison. This could be delivered through the introduction of a prescribed 'prisoner registration form,' which would capture the previous address or the prisoner or an address at which he can show a sufficient degree of connection, as well as the location of the penal institution at which the prisoner is held (so that the ERO could send a postal vote to the prisoner). In the event that a prisoner gives the address where their family resides and their family subsequently change address, the prisoner would be required to inform the electoral authority of the new address in the constituency where he will subsequently be able to claim a connection.

Prisoners who could not prove previous electoral registration at any previous address within the United Kingdom either in their own right or (if under 18 when sentenced) their parents' residence in the UK could be entitled to register based upon 'notional residence' by making a "declaration of local connection". This system was introduced by the Representation of the People Act 2000 with remand prisoners, patients and homeless persons in mind. The purpose is to ensure that individuals who cannot prove residency are not excluded from the democratic process. For example, homeless electors in this position can state an address where they commonly spend a substantial amount of their time and an address where electoral documents can be sent, in order to be able to register to vote. The advantage of this approach is that a prisoner would be voting in an area with which they have an affinity. The location of the prisoner's registration would remain constant throughout the duration of the declaration.

It is proposed to bar prisoners making a declaration of local connection to register to vote in the constituency in which the prisoner is detained without a genuine connection with the locality, based on a factor other than their detention. Prisoners are generally unlikely to have a genuine connection with the locality in which their prison is located, though it is recognised that in some cases there will be coincidence between place of former residence and place of detention.

#### *Other considerations*

There are a number of other considerations linked to the process of registering to vote that need to be considered:

- i. Security. To prevent fraudulent registrations, a system to enable the ERO to check the validity of a prisoner's registration entitlement would also be necessary. This would apply regardless of whether a prisoner is enfranchised by reference to the decision of the sentencing judge or the length of their sentence. Without such a system of checking in place an ERO would have to accept a registration form at face value and there would be a risk that non-enfranchised prisoners could be registered. One option would be a requirement for a member of the prison staff to countersign an application for registration to attest that the information provided in relation to the prisoner's entitlement to vote is correct. Alternatively, prisoners could be asked to submit a copy of their order of imprisonment to the ERO, or the prison authorities could be asked to provide that directly with their registration form. The application form would include a warning to the prisoner of the need to notify the ERO of any change of address for electoral communications during the period of imprisonment;



- ii. Information displayed on the electoral register. The electoral register is a public document, and contains the name, address and elector number of every person listed on the electoral register to be made available for public inspection. It is generally accepted that such transparency contributes to public confidence in the democratic process. However, there are also categories of electors whose addresses are not included on the electoral register, such as overseas electors, voters registered pursuant to a service declaration, and individuals registered anonymously. For example, the names of overseas electors appear at the end of the relevant polling district in the published electoral register against their elector number. Neither their 'historic' address nor their current overseas address appears. This avoids sending communications to an address at which they are not residing. It is proposed the prisoner's registration form be treated in the same manner as the last group.
- iii. Anonymous registration. Under the system of anonymous registration, the names and addresses of certain electors are withheld from the electoral register. In order to qualify for anonymous registration the elector needs to apply to their ERO, and must prove that their safety, or the safety of their family, is at risk if their names appear on the register. The application must be supported by an official source such as a chief constable or the director of social services as appropriate. The Government considers that this facility should also be available for prisoners registering to vote, subject to the same conditions that others must satisfy.

### **Arrangements for voting**

An eligible elector who appears on the electoral register produced for an election in Great Britain may vote in person, by post or by nominating a proxy.

Prior to 2001, electors who voted by postal vote were required to state a reason why they were unable to vote at the polling station on election day, however postal voting on demand was introduced in Great Britain as part of the Representation of the People Act 2000.

Proxy voting (or postal proxy voting) occurs by the elector giving a reason why they cannot vote at an election in person. This may be because they have an illness preventing them from leaving their home or hospital; a physical disability such as blindness or they may be living overseas. The elector must nominate a person in the UK who is a registered elector to vote on their behalf and the proxy can apply for a postal vote if they wish.

#### *How prisoners would cast a vote – options*

It would not be logistically feasible for the Prison Service to escort prisoners to attend their local polling station. There would also be serious public safety and cost implications. Allowing polling stations to be set up within prisons would also be unworkable: as the population of a prison contains prisoners from all over the UK, each elector would require a ballot paper from the constituency in which they are registered.

The most practical solution is therefore to allow prisoners to vote remotely, by way of a proxy or postal vote. The Government is not, however, inclined towards allowing proxy votes for convicted prisoners. Although voting by proxy is allowed for prisoners on remand, it is unclear how many prisoners have taken advantage of this facility. It is

probable that not all prisoners will be able to appoint a proxy, and arranging this from prison may not be straightforward. It may be more straightforward for the prisoner to deal with the ERO directly by applying to cast a postal vote, making them less reliant upon a third party. Arrangements would need to be made for prisoners to cast their postal vote in a private area, to enable the secrecy of the ballot to be maintained.

### **Access to campaign material and information**

Prisoners would self-evidently have less physical access to candidates given that they would not be entitled to attend public meetings or events during election campaigns. In addition, given that – under the Government’s preferred option for registration to vote – those prisoners entitled to vote in a particular establishment are likely to be registered to do so in a variety of locations, there would not in any event necessarily be particular advantage in canvassing in person. Although prisoners are likely to have less access to the media (party political broadcasts etc), this would still be available, and prisoners would be able to receive election communications from political parties (sent to the same address as their postal vote). It could be argued that those serving in HM forces overseas suffer a similar disadvantage, and do not have the same access to candidates and election literature as other members of the population.

### **In which elections would prisoners be entitled to vote?**

It is proposed that a serving prisoner who is enfranchised as a result of the proposals outlined in this paper would be entitled to be registered to vote in the elections to the following tiers of government:

- The United Kingdom Parliament (Westminster)
- The European Parliament
- The Scottish Parliament, Northern Ireland Assembly and National Assembly for Wales

The Government’s view is that those prisoners who are afforded the right to vote should also be entitled to vote in local elections (district, borough, county or unitary authority where applicable), and in referendums, since it might be viewed as arbitrary to draw a distinction between elections to the bodies set out above and these sorts of poll.

### **Questions from this section (full list on page 36)**

**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?**

**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?**

**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?**

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

**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?**

**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?**

**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.**

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

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

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

## Questions from the second stage consultation paper in full

The Government invites views on the options for the enfranchisement of prisoners; the principles that underpin those options; and the practical choices to be made in delivering each of the options. This includes views on how far any practical implications should be taken into account in deciding which of the options should be adopted to implement the Court's judgment in *Hirst (No 2)*.

**Responses to the following questions are welcomed:**

**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 1 year; or**

**(b) retain the right to vote if they are sentenced to a term of imprisonment of less than 2 years; or**

**(c) retain the right to vote if they are sentenced to a term of imprisonment of less than 4 years; or**

**(d) retain the right to vote if they are sentenced to a term of imprisonment of less than 2 years, but be able to apply to a Court to retain the vote if they are sentenced a term of imprisonment of between 2 and 4 years?**

**Please give reasons for your answer.**

**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 2 and 4 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.**

**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?**

**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?**

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**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?**

**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.**

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

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

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

**Thank you for participating in this consultation exercise.**

## About you

Please use this section to tell us about yourself

<b>Full name</b>	
<b>Job title</b> or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
<b>Date</b>	
<b>Company name/organisation</b> (if applicable):	
<b>Address</b>	
<b>Postcode</b>	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

**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.

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## How to respond

Please send your response by **29 September 2009** to:

Simon Meats  
Prisoner Voting Rights Consultation  
Elections and Democracy Division  
Ministry of Justice  
7.34, 102 Petty France  
LONDON  
SW1H 9AJ

### Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available online at: [www.justice.gov.uk/consultations.htm](http://www.justice.gov.uk/consultations.htm)

Alternative format versions of this publication can be requested from [simon.meats@justice.gsi.gov.uk](mailto:simon.meats@justice.gsi.gov.uk)

### Publication of response

A paper summarising the responses to this consultation will be published in due course. The response paper will be available online at [www.justice.gov.uk/consultations.htm](http://www.justice.gov.uk/consultations.htm)

### Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

### Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.



## **The consultation criteria**

### **1) When to consult:**

Formal consultation should take place at a place at a stage when there is scope to influence the policy outcome.

### **2) Duration of consultation exercise:**

Consultations should normally last for 12 weeks with consideration given to longer timescales where feasible and sensible.

### **3) Clarity of scope and impact:**

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

### **4) Accessibility of consultation exercises:**

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

### **5) The burden of consultation**

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

### **6) Responsiveness of consultation exercises**

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

### **7) Capacity to consult**

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

**These criteria must be reproduced within all consultation documents.**

## Consultation Co-ordinator contact details

If you have any complaints or comments about the consultation **process** rather than about the topic covered by this paper, you should contact **Gabrielle Kann**, Ministry of Justice Consultation Co-ordinator, on 020 3334 4496, or email at [consultation@justice.gsi.gov.uk](mailto:consultation@justice.gsi.gov.uk).

Alternatively, you may wish to write to the address below:

**Gabrielle Kann**  
**Consultation Co-ordinator**  
**Ministry of Justice**  
**7.14, 102 Petty France**  
**LONDON**  
**SW1H 9AJ**

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given under the **How to respond** section of this paper at page 39.

## **Annex A – List of Respondents**

### **Members of public**

Michael Hawkins,  
Mrs Jane Birkby,  
Steve Oakey,  
R.E.A.Salmon,  
Tess Nash,  
Albert Winsor,  
Nicholas Deakin,  
Mark Walker,  
Flo Krause (Barrister),  
Mazin Zeki,  
Laura Rolling,  
Tom Trust,  
Brenda Griffith-Williams,  
Benjamin John Spooner,  
Peggy Wibberley,  
Jocelyn Opie,  
Wendy Draper,  
K J H Maclean,  
Louise Clark,  
Avril King,

Bryn Wayt,  
Anver Jeevanjee,  
Mrs Anne Palmer JP (Retired),  
Dr. Stevens,  
John Bowles,  
Muhammad Majid Saeed Butt,  
Ruth Clancy,  
Dawn Wilson,  
Jill Berliand,  
Angela Pinter,  
Adrian Kirkup,  
Flora Whitelaw,  
Keith Leedham,  
Alan Sheath,  
David Morgan,  
Dr Frances Hamilton Simon,  
Ann Livingstone,  
Joanne Ather,  
Barry Harding,  
Ms N Powell Davies.

### **Local authorities**

Isle of Wight Council (3 prisons on the Isle of Wight)  
Wigan Borough Council  
Weymouth & Portland Borough Council  
West Berkshire District Council

### **Professional bodies, NDPBs and individuals**

Russell Taylor, Deputy ERO - Central Scotland

Electoral Commission

Mental Health Act Commission

Prison Governors Association

AEA Southern Branch

Association of Electoral Administrators

National Offender Management Service, Offender Policy and rights unit

Brian Coulter, Prisoner Ombudsman for Northern Ireland

### **Lobby groups**

Prison Reform Trust

Civil Liberty,

Northern Ireland Association for the Care and Resettlement of Offenders

Unlock

Inquest (prisoner pressure group)

Women in Prison

Howard League of Penal Reform

The Odysseus Trust

The Association of Members of Independent Monitoring Boards

Liberty

The AIRE Centre

Northern Ireland Association for the Care and Resettlement of Offenders

SAFARI (Supporting All Falsely Accused with Reference Information)

The Prisons Handbook

### **Political Parties**

Oliver Heald MP (Conservative Party)

Stewart Stevenson MSP, Shadow Deputy Minister for Justice (Scottish National Party)

### **Peers**

Lord David Ramsbotham, HM Chief Inspector of Prisons 1995-2001

### **Religious groups and individuals**

Joint Public Issues Team the Baptist Union of Great Britain, the Methodist Church and the United Reformed Church

Peter Selby, Bishop of Worcester

Rev CM Jones (Churches Criminal Justice Forum)

Penal Affairs Panel, the General Assembly of Unitarian and Free Christian Churches.

Susan Brice Flemons, Quaker prison minister, HMP Wormwood Scrubs

Canon Hugh Searle, former full-time prison chaplain

### **Academics and learning institutions**

Daniel Vulliamy, Senior Lecturer, Centre for Lifelong Learning, University of Hull - response in personal capacity.

Dr Susan Eaton, Law, Brunel University

Enver Solomons (Crime and Justice Studies)

Jeremy Wickins, Sheffield Institute of Biotechnological Law and Ethics (SIBLE),

School of Law, University of Sheffield,

International Centre for Prison Studies

Prof Barry Williams (Community and Criminal Justice Research Centre, De Montfort University)

Coulsdon V11th Form College

### **Legal groups**

Chivers Solicitors

Leigh Day and Co, solicitors (Human Rights)

### **Anonymous respondents**

Member of the public (anonymous)

Member of the public (anonymous)

Member of the public (e-mail address removed to protect anonymity)

Former criminal justice system professional, (personal details removed to protect anonymity)

## Annex B

### The UK's policy and law on voting rights of prisoners

1. The provisions governing prisoners' disenfranchisement reflect, in part, the domestic residence based system of electoral registration in the United Kingdom and the purposes and consequences of legal custody. They are the combined result of the common law and statutes governing the franchise and criminal justice

#### **19<sup>th</sup> century: from a property-based franchise to the Forfeiture Act 1870**

2. The expansion of electoral suffrage has a long history. In 1832, the franchise was given to men who owned land valued at not less than ten pounds. At common law, before 1870, convicted traitors and felons forfeited their lands; the loss of property rights therefore had the consequential effect of excluding them from the suffrage. Persons convicted of a misdemeanour only (a less serious crime) did not lose their property rights on conviction and, accordingly, any imprisonment did not legally disenfranchise them unless they were physically prevented by the fact of being in prison on the day of the poll.
3. The Forfeiture Act 1870 removed the rule by which felons forfeited their land, but section 2 of the Act provided that any person convicted of treason or a felony and sentenced to a term of imprisonment exceeding 12 months lost the right to vote at parliamentary or municipal (local) elections until they had served their sentence. The Act applied to England, Wales and Ireland. The Forfeiture Act 1870 reflected earlier rules of law relating to the forfeiture of certain rights by a convicted "felon". It continued to have effect until the Criminal Law Act 1967, which abolished the distinction between felonies and misdemeanours and consequently amended the 1870 Act so that only persons convicted of treason were left disenfranchised.

#### **20<sup>th</sup> century: Representation of the People Acts 1918-1969**

4. The Representation of the People Act 1918 brought about changes to the general voter registration requirements. In the nineteenth century, entitlement to the franchise had been exercised by making a claim to the overseers of the electoral roll. Once registered, an elector remained on the roll almost indefinitely (unless they moved to a different place), as it was not annually revised. Under the 1918 Act, new arrangements were put in place to revise the register twice a year following house to house and other inquiries by local authority staff. Electors generally had to be able to prove six months residence at a qualifying address in the parliamentary constituency (or related area) in which they wanted to register. Persons in custody, whether in lunatic asylums or prisons, were specified as not falling within the interpretation of "resident" at those places for the purposes of the new electoral registration requirements.
5. In 1968, a multi-party Speaker's Conference on Electoral Law recommended that convicted prisoners in custody should not be entitled to vote. In consequence, the Representation of the People Act 1969 introduced specific provision that convicted

persons were legally incapable of voting during the time that they were detained in a penal institution. The 1969 Act applied to persons detained in penal institutions even if convicted abroad and repatriated to prisons in the UK. It also specified the types of “convictions” covered by the legal incapacity, including courts-martial, but not those whose detention related to fine defaults or contempt of court.

### **Current United Kingdom electoral law on prisoner voting**

6. The Representation of the People Act 1983 re-enacted the provisions of the 1969 Act and continues to set out the fundamental principle that convicted serving prisoners are ineligible to vote. The Representation of the People Act 2000 amended the 1983 Act to allow for the registration of prisoners who are remanded in custody.

#### *Legal incapacity to vote*

7. Section 3 of the Representation of the People Act 1983 provides as follows:

*“3 - (1) A convicted person during the time that he is detained in a penal institution in pursuance of his sentence or unlawfully at large when he would otherwise be so detained is legally incapable of voting at any parliamentary or local government election.*

*(2) For this purpose-*

*(a) “convicted person” means any person found guilty of an offence (whether under the law of the United Kingdom or not), including a person found guilty by a [court-martial under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957<sup>8</sup>, or by a Standing Civilian Court established under the Armed Forces Act 1976], but not including a person dealt with by committal or other summary process for contempt of court; and*

*(b) “penal institution” means an institution to which the Prison Act 1952, the Prisons (Scotland) Act 1952 or the Prison Act (Northern Ireland) 1953 applies; and*

*(c) a person detained for default in complying with his sentence shall not be treated as detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, but a person detained by virtue of a conditional pardon in respect of an offence shall be treated as detained in pursuance of his sentence for the offence.*

*(3) It is immaterial for the purposes of this section whether a conviction or sentence was before or after the passing of this Act.”*

#### *Remand prisoners*

8. Under the Representation of the People Act 2000, unconvicted prisoners held on remand at penal institutions became entitled to refer to residence at a penal institution for the purposes of electoral registration. In this way the 2000 Act cut down on the restrictions as to what counted as “residence” for the purposes of electoral registration. Section 7A (Residence: persons remanded in custody, etc) of the 1983

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<sup>8</sup> Prospectively repealed by the Armed Forces Act 2006 at a date to be appointed.

Act now provides for the registration of those prisoners who are remanded in custody:

*“7A.-(1) This section applies to a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after –*

*(a) being convicted of any offence, or*

*(b) a finding in criminal proceedings that he did the act or made the omission charged.*

*(2) A person to whom this section applies shall ... be regarded for the purposes of section 4 above as resident at the place at which he is detained if the length of the period which he is likely to spend at that place is sufficient for him to be regarded as resident there for the purposes of electoral registration.”*

9. Persons remanded in custody who are detained in a penal institution or other place for custodial purposes, are entitled to be registered through either of two options. The first allows them to register as electors at the place at which they are detained, provided that the period of their detention at that address is sufficient to enable them to be regarded as being resident there. The second enables them to register at any place, other than where they are detained, by means of a Declaration of Local Connection (see paragraph 17 below) in respect of the address at which they would be living were they not detained or an address at which they had previously resided.
10. Remand prisoners are able to vote by both proxy and post, but not in person. If they are already registered under the usual canvass or provisions for declarations of local connection, their registration under those provisions would continue in effect until such time as the declaration lapsed (after 12 months), or until the electoral registration officer determined that they had ceased to be entitled to registration based upon residence at their previous address.

#### *Resumed eligibility of prisoners to register to vote upon release*

11. If a prisoner has been removed from the register or had never registered in the first place he can apply to be registered upon release from prison. The normal rules for establishing residence would apply to his application, or the normal requirements for applying via the declaration of local connection.

## Current registration arrangements

### **Outline of the current methods of registration and the statutory responsibilities of registration officers and returning officers.**

12. Under the Representation of the People Act 1983, those entitled to vote at UK Parliamentary, and local government elections are: those who have attained the age of 18 and who are British citizens, citizens of Commonwealth countries who do not require leave to enter or remain in the UK, and citizens of the Republic of Ireland. Upon meeting the nationality requirement, such persons must not be subject to any



legal incapacity and be permanently residing in the UK. Election to the devolved legislatures follows the franchise for local elections. Only British citizens previously registered in the UK are entitled to be registered as overseas electors should they move abroad. The European Parliamentary Elections Act 2002 provides that, broadly speaking, those who can vote in Parliamentary or local elections can vote in European elections. As a result of provisions in the EC Treaty and domestic legislation resident citizens of other EU Member States are also eligible to vote in European Parliamentary elections, elections to the devolved legislatures and local elections. Prisoners are currently disenfranchised by the Representation of the People Act 1983, as noted above.

13. The Representation of the People Act 1983 requires EROs to be appointed by local authorities for the purpose of compiling the electoral register. EROs are required to conduct an annual canvass in the area for which they are responsible to ascertain which persons in that area are entitled to be, or to remain, registered to vote because they are resident at a particular address on the 15 October. On receipt of the annual canvass form, someone in each household should complete and return to the ERO, providing details in respect of anyone and everyone in the household who is eligible to be included on the electoral register. Electors, who are 16 or 17, are required to be listed on the annual canvass form as attainers<sup>9</sup>.
14. In addition to the annual canvass electors can, since 2000, also register through “rolling registration”, which means they can apply to register all year round apart from during September and December when the annual canvass is being carried out. Electors can also register to vote through “rolling registration” up until 11 days prior to an election.<sup>10</sup> Upon submitting a rolling registration form an elector will remain registered until publication of the revised register, meaning they must update their registration details during the annual canvass that immediately follows their inclusion on the electoral register; EROs have the discretion to carry forward such electors for a period of 1 year where a response has not been received during the canvass period where there is evidence to suggest the elector is still eligible.
15. Section 9A of the Representation of the People Act 1983 (as inserted by s9 of the Electoral Administration Act 2006) also places a duty on the ERO to “take all steps that are necessary” to produce an accurate and comprehensive electoral register, including sending the annual canvass form more than once, making house to house enquiries and inspecting records that the ERO is permitted to inspect.

#### **Explanation of the alternative bases for registration – residence based, and declaration based entitlement.**

16. Electoral registration is strongly based on a person’s residency, with a person being registered to vote in the area where they are presently resident. However, there are

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<sup>9</sup> This system does not apply in Northern Ireland where voters register individually and there is no annual canvass.

<sup>10</sup> Provision allowing people to register up to 11 days before an election was made in the Electoral Administration Act 2006. The Representation of the People (Northern Ireland) Regulations 2008 extended this to Northern Ireland in July 2008 and requires electors to produce evidence of their age, nationality and residence of no less than 3 months.

exceptions to this rule, for example in the case of overseas electors. Overseas electors, not having a place of residency in the UK, can apply to the ERO in the constituency in which they were last registered to vote, by way of an overseas declaration, for a period of up to 15 years.

17. Electors who cannot prove residence, such as homeless persons, can register to vote through a declaration of local connection. For example, homeless electors in this position must state an address where they commonly spend a substantial amount of their time and an address where electoral documents can be sent.

**Explanation of system for third party objections to registration and the ERO's power to remove from the electoral register an elector found not to be entitled to registration.**

18. Any elector can inspect the electoral register under supervision and make an objection about the inclusion of an elector in writing to the ERO. If the ERO decides against "disallowing" the objection, a hearing may be called where the legitimacy of the elector to remain on the electoral register is discussed. If the hearing decides the registrant is not entitled to be registered, s/he is removed from the electoral register.
19. If an ERO discovers that an elector is not or may not now be resident, then they are required to undertake a review of the registration. The review may result in the ERO writing to the elector for more evidence as to why that person should remain registered or depending on the circumstances the ERO may arrange and conduct a review hearing.
20. The following situations do not require a formal review as the ERO can remove electors from the electoral register as deemed appropriate:
  - The ERO determines upon conclusion of the annual canvass, and before publication of the revised register, that an elector is no longer resident at the qualifying address within their jurisdiction.
  - The elector informs the Electoral Registration Officer that they are no longer resident at their qualifying address.
  - The Electoral Registration Officer receives a notice from the elector's new Electoral Registration Officer that the elector is no longer resident at the old qualifying address.
  - The Electoral Registration Officer receives notification of the death of an elector by the registrar of deaths, a relative or the executor.

**Explanation of the alternative methods of voting – polling station, postal voting, proxy voting**

21. Electors can vote through the ballot box, a postal vote or by appointing a proxy to vote on their behalf. Prior to 2001, electors who voted by postal vote were required to state a reason why they were unable to vote at the polling station on election day, however postal voting on demand was introduced in GB as part of the Representation of the People Act 2000.

22. Proxy voting (or postal proxy voting) occurs by the elector giving a reason why they cannot vote at an election in person. This may be because they have an illness preventing them from leaving their home or hospital; a physical disability such as blindness or they may be living overseas. The elector must nominate a person in the UK who is a registered elector to vote on their behalf and the proxy can apply for a postal vote if they wish.

#### **Outline of the information contained in the electoral register**

23. On the electoral register electors are listed by address. In addition to name and address, the only other information recorded is the nationality of an elector (if an EU citizen) and the date of birth of an elector if they are an attainer<sup>11</sup>. Many EROs keep the list of overseas electors and electors who register to vote through a service declaration separately from the list of electors who register in the normal manner.<sup>12</sup>

#### **Outline of consequential impact of inclusion on electoral register: jury service, participation in nomination of candidates, status as permissible donor to registered parties.**

24. The electoral register is not merely used for election purposes. To nominate candidates at an election, or donate large sums of money (and make loans) to political parties, it is a requirement to be listed on the electoral register. Similarly, the names of persons who are summoned for Jury Service are taken randomly from the electoral register. EROs would need to ensure the list of registered prisoners was not supplied to the Jury Central Summoning Bureau (JCSB), as is the case with overseas voters. An elector who has registered to vote and is subsequently sentenced to imprisonment is barred from serving on a jury under the Juries Act 1974.

25. In addition, the electoral register is used for many other purposes; such as by Credit Reference Agencies as a tool for deciding whether a person is eligible for receiving credit. Voters can decide whether they wish to be included in the edited electoral register. The edited register can be sold to whoever wants to buy it, whereas there are restrictions on who may buy the full version of the register.

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<sup>11</sup> Electors who are not yet 18 years of age but 16 years and over must be shown on the register of electors and are known as attainers. Those reaching the age of 18 on polling day will be able to vote.

<sup>12</sup> A service declaration may be made by a member of the armed forces or their families whilst posted overseas. Provision is made in relation to service qualification in Sections 14 and 15 of the Representation of the People Act 1983.





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