

# PERTH AND KINROSS COUNCIL

27 February 2019

## SCOTTISH GOVERNMENT CONSULTATION ON PRISONER VOTING

Report by the Chief Executive (Report No. 19/65)

### PURPOSE OF REPORT

This report sets out the response of Perth and Kinross Council to the Scottish Government's Consultation on its proposals for Prisoner Voting and for ensuring compliance with the European Convention on Human Rights (ECHR).

### 1. BACKGROUND / MAIN ISSUES

- 1.1 The Scottish Government is consulting on proposals for the introduction of voting for prisoners in Scotland. The consultation opened in December 2018 and will close on 8 March 2019. A copy of the consultation is shown in Appendix 1 and also available at [https://consult.gov.scot/elections/prisoner-voting/user\\_uploads/consultation-on-prisoner-voting.pdf](https://consult.gov.scot/elections/prisoner-voting/user_uploads/consultation-on-prisoner-voting.pdf)
- 1.2 There has been a longstanding ban on convicted prisoners voting in all Elections in the UK. This ban applies irrespective of the length of the sentence and applies to Local Government and Scottish Parliament Elections. Civil prisoners, such as people committed for non-payment of fines, can already vote as they have not been convicted of an offence. Prisoners who are held on remand are also currently able to vote. Prisoners released on parole or home detention curfew (HDC) are also eligible to vote.
- 1.3 The European Court of Human Rights (ECHR) found in 2005 that the UK's blanket ban on convicted prisoners voting in Elections is in breach of Article 3 of Protocol 1 of the ECHR. The Scotland Act 2016 devolved responsibility for the franchise at Local Government Elections to the Scottish Parliament. The Scottish Parliament gained new powers over Elections as a result of the Scotland Act 2016 and is now considering how to ensure compliance with the European Convention on Human Rights in relation to prisoners voting. The Scottish Government plans to bring forward legislation on the franchise for Scottish Parliament and Local Government Elections.
- 1.4 The Scottish Government recognises that there are strongly held views on whether or not prisoners should be able to vote. Factors that need to be considered include the rights of victims and the public interests in sanctioning criminal conduct and in enhancing civic responsibility and respect for the rule of law, as well as the rights of prisoners as members of society and the needs of rehabilitation.
- 1.5 The Scottish Government proposes that the right balance will be struck by enabling prisoners serving short sentences (which would be defined as a

sentence of imprisonment for a length of time which is below a specified maximum threshold) to vote.

1.6 The proposal is to introduce voting rights for prisoners serving short sentences in Scottish Parliament and Local Government Elections. The consultation questions relate to:

- The proposal is to limit voting rights to prisoners according to the length of prison sentence and views are sought on what the appropriate length of sentence might be.
- The practical issues associated with giving some prisoners the right to vote.

## **2. PROPOSALS**

2.1 The Council has prepared a response to the small number of questions set out within the Scottish Government's Consultation on prisoner voting. A copy of the response is set out in Appendix 2.

2.1 In summary it is proposed that:

- the Council agrees with the intention to limit voting to prisoners according to the length of sentence. It is suggested that this could be set reasonably and appropriately at 12 months, as this is consistent with the sentencing powers and jurisdiction between summary and solemn procedure in Scottish Courts.
- the Council makes comment on the importance of their being robust arrangements to determine the place of ordinary residence for prisoners at the point of imprisonment in order that election results are not skewed. It is suggested that this is particularly important for the Council as it has two prisons within its geographical boundary.

## **3. CONCLUSION**

3.1 The European Court of Human Rights (ECHR) found in 2005 that the UK's blanket ban on convicted prisoners voting in Elections is in breach of Article 3 of Protocol 1 of the ECHR. The Scottish Parliament gained new powers over Elections as a result of the Scotland Act 2016 and the Scottish Government plans to bring forward legislation on the franchise for Scottish Parliament and Local Government Elections, which will include changes to the entitlement for some prisoners to vote in Scottish Parliament and Local Government Elections.

3.2 The Council is requested to:

- a. Note the impending changes to the entitlements for some prisoners to vote in Scottish Parliament and Local Government Elections.
- b. Approve the proposed response to the Scottish Government Consultation as set out in Appendix 2.

**Author(s)**

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**Approved**

<b>Name</b>	<b>Designation</b>	<b>Contact Details</b>
Karen Reid	Chief Executive	1 February 2019

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## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan	None
Corporate Plan	None
Resource Implications	None
Financial	None
Workforce	None
Asset Management (land, property, IST)	None
Assessments	None
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	None
Risk	None
Consultation	Yes
Internal	None
External	None
Communication	None
Communications Plan	None

### 1. Strategic Implications

#### Community Plan

1.1 Not applicable.

#### Corporate Plan

1.2 Not applicable.

### 2. Resource Implications

#### Financial

2.1 Not applicable.

#### Workforce

2.2 Not applicable.

#### Asset Management (land, property, IT)

2.3 Not applicable.

### **3. Assessments**

#### Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 This report has been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:
- (i) Assessed as not relevant for the purposes of EqIA

#### Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.4 No action is required as the Act does not apply to the matters presented in this report.

#### Sustainability

- 3.5 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:
- in the way best calculated to delivery of the Act's emissions reduction targets;
  - in the way best calculated to deliver any statutory adaptation programmes; and
  - in a way that it considers most sustainable.
- 3.6 This report and the matters referred to in it have no impact on the duties.

#### Legal and Governance

- 3.4 Not applicable.

#### Risk

- 3.5 Not applicable.

#### **4. Consultation**

##### Internal

- 4.1 Nicola Rogerson, Service Manager, Criminal Justice Services and Lisa Simpson, Head of Governance & Legal Services have been consulted in the preparation of this report.

##### External

- 4.2 Not applicable.

#### **5. Communication**

- 5.1 Not applicable.

#### **2. BACKGROUND PAPERS**

##### **Consultation Document**

#### **3. APPENDICES**

Appendix 1 – Consultation Document  
Appendix 2 – Completed Consultation