

Citizen Participation and Public Petitions Committee

9th Meeting, 2023 (Session 6), Wednesday
31 May 2023

PE2015: Extend the right to vote in Scottish local government and Scottish Parliament elections to all prisoners

Petitioner	Irene Krsmanovic
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to extend the right to vote in Scottish local government and Scottish Parliament elections to all prisoners held in Scottish prisons.
Webpage	https://petitions.parliament.scot/petitions/PE2015

Introduction

1. This is a new petition that was lodged on 3 April 2023.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition collects signatures while it remains under consideration. At the time of writing, 18 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.
6. On 4 May 2023, Ministers laid a copy of the report on the review of the operation of section 5 of the [Scottish Elections \(Franchise and Representation\) Act 2020](#). The report's conclusions and next steps can be found at **Annexe D** of this paper.

Action

The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe A

PE2015: Extend the right to vote in Scottish local government and Scottish Parliament elections to all prisoners

Petitioner

Irene Krsmanovic

Date Lodged:

03/04/23

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to extend the right to vote in Scottish local government and Scottish Parliament elections to all prisoners held in Scottish prisons.

Previous action

On 12.9.2021 I wrote to Keith Brown MSP (Cabinet Secretary for Justice) about this issue.

Background information

By excluding the majority of prisoners from voting at elections, the Government is denying a voice to those who have first-hand experience of the justice system and prison service.

If prisoners continue to be disenfranchised this is a failure in the system of checks and balances on government.

Research shows that prisoners are frequently care experienced, have grown up in poverty and/or have had a family member convicted of a criminal offence.

Furthermore, it has been suggested that as many as 3% of the prison population are ex-service personnel and/or homeless.

Also, many prisoners are identified as having a learning disability, previous head injury and/or mental health difficulties.

There are also people in prison that are innocent because as with any human-run system, there is potential for error.

Scotland and the rest of the UK lag far behind other European countries in its continued disenfranchisement of prisoners.

Prisoner voting rights are essential for rehabilitation.

Annexe B

The logo for SPICe (The Information Centre) is a purple rounded rectangle. The text 'SPICe' is in white, with 'The Information Centre' and 'An t-Ionad Fiosrachaidh' in a smaller white font to its right.

The Information Centre
An t-Ionad Fiosrachaidh

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2015](#): Extend the right to vote in Scottish local government and Scottish Parliament elections to all prisoners

Brief overview of issues raised by the petition

- There are a number of groups of people living in Scotland who do not have the right to vote in Scottish Parliament and local elections. These include under 16s, asylum seekers, and prisoners serving sentences of more than 12 months. The petitioner seeks to extend the right to vote in these elections to all prisoners.
- In 2005, the [European Court of Human Rights ruled](#) that the UK was in breach of the [European Convention of Human Rights](#) (ECHR) in relation to prisoner voting rights. The [Scotland Act 1998](#) requires that Acts of the Scottish Parliament must be compatible with the ECHR.
- Prior to 2020, all prisoners in Scotland were unable to vote in Scottish Parliament and local elections. This was because the [Representation of the People Act 1983](#) banned prisoners in the UK serving custodial sentences, regardless of length, from voting in elections for devolved legislatures and local government elections. This ban did not apply to people held on remand, those on parole, or people on home detention curfew.

- Following the devolution of powers over Scottish Parliament and Scottish local government elections under the [Scotland Act 2016](#), the Scottish Government [conducted a consultation](#) on prisoner voting between December 2018 and March 2019. The Scottish Parliament then passed the [Scottish Elections \(Franchise and Representation\) Act 2020](#):
 - The 2020 Act gave [prisoners serving sentences of 12 months](#) or less the right to vote in Scottish Parliament and local government elections. Eligible prisoners can exercise their right to vote [by post or proxy](#).
 - The 2020 Act also requires [Scottish Ministers to undertake a review](#) of the changes and lay a report before the Scottish Parliament by 4 May 2023.
- The 2020 Act had been subject to [section 31\(5\) of the Scotland Act 1998](#) - which requires a two-thirds majority in the Scottish Parliament for Bills that relate to some protected subject matters. It is the Presiding Officer who determines whether a Bill relates to such matters, which are listed as:
 - (a) the persons entitled to vote as electors at an election for membership of the Parliament,
 - (b) the system by which members of the Parliament are returned,
 - (c) the number of constituencies, regions or any equivalent electoral area, and
 - (d) the number of members to be returned for each constituency, region or equivalent electoral area.
- The Scottish Government ran [a consultation on electoral reform](#) between 14 December 2022 and 15 March 2023.
 - The consultation asked whether people detained in hospital in connection with offending behaviour should be given the right to vote. Such people are currently disenfranchised [under section 3A of the Representation of the People Act 1983](#).
 - The consultation did not include a direct question on prisoner voting and referenced the Scottish Government's statutory duty to report on the operation of prisoner voting by virtue of

[section 6 of the Scottish Elections \(Franchise and Representation\) Act 2020](#). However, it did state that “any comments consultees might have would be welcome”

Annie Bosse, Researcher

27 April 2023

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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Annexe C

Scottish Government submission of 3 May 2023

PE2015/A: Extend the right to vote in Scottish local government and Scottish Parliament elections to all prisoners

Your e-mail of 4 April sought the views of the Scottish Government in relation to the petition referenced above.

The Government notes the petitioner's "calling on the Scottish Parliament to urge the Scottish Government to extend the right to vote in Scottish local government and Scottish Parliament elections to all prisoners held in Scottish prisons".

Scottish Ministers are required, under section 6 of the [Scottish Elections \(Franchise and Representation\) Act 2020](#) ("the Franchise Act"), to undertake a review of the operation of section 5 of that Act (voting by convicted persons sentenced to terms of 12 months or less). This is with a view to considering whether the 12 month sentence threshold for prisoner voting in Scottish Parliament and local elections is appropriate.

As required by the Franchise Act, Ministers will lay a copy of the report on the review before the Scottish Parliament no later than 4 May 2023. It will also be published on the Scottish Government website tomorrow morning at <https://www.gov.scot/isbn/9781805258285>

In addition, a related report on the results of a survey of eligible prisoners conducted at the time of last May's local elections will also be published on the Scottish Government website on 4 May at: <https://www.gov.scot/isbn/9781805257455>

I hope that this response is helpful to the Committee.

Annexe D

Scottish Government Report on Prisoner Voting in Scottish Devolved Elections – Conclusion and Next steps

Levels of engagement with voting amongst the eligible prisoner population remain low. The Scottish Government's survey of affected prisoners held in 2022 suggests a need for improved information on candidates and their policies during an election campaign (for reference, prisoners have access to television, but access to the internet is restricted). The Government therefore intends to review processes surrounding prisoner voting registration and awareness raising. In addition, the Government is discussing with the SPS and the Electoral Commission ways in which further information on election campaigning could be provided to prisoners.

The Government considers that there is not at present sufficient data available to assess the impact of any potential change to the sentence threshold. As a result, the Government is discussing with SPS the merits of adding a question or questions on attitudes to prisoner voting to the SPS's survey of all prisoners, conducted every two years (note: in response to the 2017 Prison Survey, a majority (90%) of prisoners indicated that convicted/sentenced prisoners should have the right to vote in elections). This could also be used to gauge the attitudes of prisoners serving sentences longer than 12 months to voting and to assess the views of those on remand in relation to their voting rights. It would also be possible to conduct a further dedicated survey of eligible prisoners after the next national devolved elections.

The Scottish Government's position remains that it is neither appropriate, nor necessary to ensure compliance with the European Convention on Human Rights, to enfranchise all prisoners, but that the correct balance is found in extending voting rights to those prisoners serving shorter sentences. The Scottish Government does not plan to revisit the 12-month threshold for prisoner voting.