

# Agenda – Equality, Local Government and Communities Committee

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Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 7 March 2019

Meeting time: 10.00

For further information contact:

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## Pre-meeting (09.45 – 10.00)

(09.45 – 10.00)

### 1 Introductions, apologies, substitutions and declarations of interest

(10.00)

### 2 Inquiry into voting rights for prisoners: evidence session 5

(10.00–11.00)

(Pages 1 – 18)

Elan Closs Stephens CBE, Electoral Commissioner, Electoral Commission in Wales

Rhydian Thomas, Head of Electoral Commission, Electoral Commission in Wales

Rhys George, Chair of the Wales Branch of the Association of Electoral Administrators

Amanda Bebb, Deputy Chair of the Wales Branch of the Association of Electoral Administrators

Peter Stanyon, Chief Executive, Association of Electoral Administrators

### Break (11.00 – 11.15)

(11.00 – 11.15)



### **3 Inquiry into voting rights for prisoners: evidence session 6**

(11.15 – 12.00)

Baroness Newlove, Victims' Commissioner

### **4 Papers to note**

#### **4.1 Letter from the Equality and Human Rights Commission in relation to the Cumulative Impact Assessment briefing for Committees**

(Pages 19 – 21)

### **5 Motion under Standing Order 17.42 (vi) to resolve to exclude the public from the remainder of the meeting and from the meeting on 13 March 2019**

(12.00)

### **6 Inquiry into voting rights for prisoners: consideration of oral evidence**

(12.00 – 12.15)

Document is Restricted

**Organisation:**

1 1. Organisation: Association of Electoral Administrators (AEA). A joint response from the National AEA and the Wales Branch of the AEA.  
**Peter Stanyon, Chief Executive, AEA National Rhys George Chair of the Wales Branch**

**Summary of Organisation:**

2 The Association of Electoral Administrators (AEA) was founded in 1987 and is the professional body representing the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has 1,917 members, the majority of whom are employed by local authorities to provide electoral registration and election services. There are eleven regional branches of the Association covering the United Kingdom one of which is Wales.

3 The Association of Electoral Administrators does not hold a view on this question. It is a matter for Parliament and the devolved administrations to determine. AEA members will administer the process according to the legislation in force.

4 Terms of reference – responses:

**4.1 Arguments for and against giving some or all prisoners the right to vote in Welsh elections, and whether distinctions might be drawn between different categories of prisoner on the basis of sentence length, expected date of release, or types of offence;**

The Association of Electoral Administrators does not hold a view on this question. It is a matter for Parliament and the devolved administrations to determine. AEA members will administer the process according to the legislation in force.

However, on the potential introduction of voting rights for Welsh prisoners we would encourage the Assembly Commission to consult fully with all relevant electoral stakeholders on the details of any proposed new legislation.

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It is also noted at the time of responding that the Assembly Commission have confirmed that the Welsh Parliament and Elections (Wales) Bill (relating to the elections to the National Assembly for Wales) will definitely not include any provision for prisoner voting rights. As such the potential of introducing this reform only relates to Welsh Local Government Elections. Whilst it is a matter for the Assembly to determine the voting rights of prisoners, we do consider that for administrative consistency and to avoid elector confusion, it would be preferable for prisoners voting rights to be the same for all types of election and referendum whatever the Parliament and the devolved administrations policy maybe.

#### **4.2 Practical issues, such as electoral registration (including address), voting method, prisoner engagement with the political process, the provision of political and citizenship information and education;**

It is a matter for Parliament and the devolved administrations to determine. AEA members will administer the process according to the legislation in force.

However, we would encourage the Assembly Commission to consult fully with all relevant electoral stakeholders on the details of any proposed new legislation. In conjunction with the Electoral Commission we would advise that the following initial issues are given full consideration:

- The eligibility criteria for prisoners to register, bearing in mind that residence is one of the main criteria for registration. Would, for example, their registration be relevant to their previous address or the location of the prison where they are currently resident?
- How Welsh voters imprisoned in English prisons would be affected.
- The franchise rights of youths aged 15–17 who are sent to special secure centres as opposed to young people aged 18 who are sent to prisons.
- The method by which prisoners would cast their vote (i.e. the logistical difficulties in setting up polling stations in prisons or the mandated requirement to have an absent vote).
- The right to a secret ballot for all prisoners regardless of how they

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cast their vote.

- The entitlement to a proxy vote without the need for their application to be attested (as is already the case for overseas and services voters).
- An awareness programme to highlight the process in order to ensure prisoners understand how to register and cast their vote.
- How prisoners could access information about the policies of candidates, parties and other campaigners.

It should also be noted that should prisoner voting rights be introduced this would create significant administrative challenges in administration of elections and implementing specifically for local government franchise reform. Should any reforms be introduced we ask the Assembly to ensure that any changes in legislation relating to elections are made well in advance of the polls in which the changes will take effect.

In the AEA's 2016 post-election report: ["Pushed to the Absolute Limit: 2016 – the electoral year never to forget"](#) we made the following recommendation:

"Except in cases of unforeseen emergencies and proportionate to the need, changes to election law should not be applicable to any elections within a six-month period from the date the legislation comes into effect."

In relation to any proposals to changes relating to electoral registration, a minimum of 12 months should be given to the new provisions(s) coming into force. Furthermore, we would recommend following a model similar to the approach taken by the Scottish Government in relation to the introduction of legislation for the implementation of the 2014 Scottish Independence Referendum.

#### **4.3 Cross-border issues arising from prisoners from Wales being imprisoned in England and vice versa;**

It is a matter for Parliament and the devolved administrations to determine. AEA members will administer the process according to the legislation in force.

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However, the administrative process could be significantly challenging for both Electoral Registration Officers and Returning Officers working with cross-border issues in relation to registration and administering the voting process. These issues may be more significant for women prisoners who are likely to be in a prison in England due to there not being a women's prison in Wales. We would therefore encourage the Assembly Commission to consult fully with all relevant electoral stakeholders on the details of any proposed new legislation if introduced.

#### **4.4 Whether special considerations apply to young offenders in custody if the franchise is extended to 16 and 17 year olds generally, and**

It is a matter for Parliament and the devolved administrations to determine the minimum voting age, although we do consider that for administrative consistency and to avoid elector confusion, the qualifying age should be the same for all types of election and referendum.

Education and support for 16 and 17 year olds on voting and how to vote should be the same for young offenders as for other 16 and 17 year olds in education.

#### **4.5 Other countries' approaches to prisoner voting.**

The Association of Electoral Administrators does not hold a view on this question.

**5. Dialogue page questions responses:** In considering whether you think prisoners should be allowed to vote in Welsh elections, we would be grateful if you would also consider the following:-

##### **5.1 Should a prisoner's right to vote depend upon the length of their sentence, the type of offence committed and/or their expected release date?**

The Association of Electoral Administrators does not hold a view on this question. It is a matter for Parliament and the devolved administrations to determine. AEA members will administer the process according to the legislation in force.

##### **5.2 If prisoners were given the right to vote, what method should be used?**

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**(for example, postal vote, electronically, mobile booths in the prison, or another method?)**

It is a matter for Parliament and the devolved administrations to determine. AEA members will administer the process according to the legislation in force.

However, whatever system is introduced it must be deliverable by the Electoral Registration Officer and Returning Officer (including in cross boundary situations) and ensure the administration of votes to prisoners can be achieved safely, securely and secretly. We would therefore encourage the Assembly Commission to consult fully with all relevant electoral stakeholders on the details of any proposed new legislation if introduced.

**Do you think special considerations should apply to young offenders in custody if the voting age is lowered to 16 and 17 year olds generally?**

As we said in question 4.4, it is a matter for Parliament and the devolved administrations to determine the minimum voting age, although we do consider that for administrative consistency and to avoid elector confusion, the qualifying age should be the same for all types of election and referendum.

Education and support for 16 and 17 year olds on voting and how to vote should be the same for young offenders as for other 16 and 17 year olds in education.

**If prisoners were given the right to vote, at what address should they be registered to vote?**

It is a matter for Parliament and the devolved administrations to determine. AEA members will administer the process according to the legislation in force. We would however state that, if prisoners were to register at the prison, the impact on certain Electoral Registration Officers could be significant. We would therefore encourage the Assembly Commission to consult fully with the relevant Electoral Registration Officers on the details of any proposed new legislation if introduced.

1. This response sets out our views on the Equality, Local Government and Communities Committee of the National Assembly for Wales' inquiry into voting rights for prisoners. We are responding to this consultation as part of our statutory role to keep electoral law under review and to recommend changes where we think they are needed.

2. We take no view on whether prisoners should be entitled to vote or not. This is a matter of constitutional policy which is for the National Assembly to determine. Our response therefore focuses on the practical implications should prisoners in Wales be given the right to vote.

3. Any legislation should be commenced no later than six months prior to the beginning of the annual canvass. This would give Electoral Registration Officers (EROs) sufficient time to plan and implement the changes, both for the canvass and for related public awareness activities.

#### The current position

4. The Welsh Government and Assembly Commission are currently considering whether certain prisoners from Wales should be able to vote in local government and National Assembly for Wales elections and have previously consulted on this issue.

5. Under existing legislation, prisoners who are detained are not entitled to be registered to vote because they are legally incapable of voting. However there are some prisoners who are currently eligible to vote:

- Unconvicted prisoners (i.e. those on remand).
- Convicted but unsentenced prisoners.
- Persons imprisoned for contempt of court or under Prison Rule 7(3) 2. <sup>1</sup>
- Those serving a term of imprisonment in default of payment of a sum of money, adjudged to be paid on conviction.

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/1999/728/article/7/mg>

## Practical issues of prisoner voting

### Eligibility

The Welsh Government is currently considering whether to prescribe the criteria for prisoners to be eligible to vote to include for example length of sentence, nature of offence and proof of having previously resided in Wales.

6. As residence is one of the main criteria for electoral registration, consideration will need to be given to the address in respect of which prisoners would be registered. For example if any eligible prisoners were registered to vote at the prison address, this could mean that registered prisoners make up a significant proportion of the electorate in the ward where the prison is located.

7. As prisoners are only present at the prison address as a result of their sentence, an alternative option would be for prisoners to register at a previous or intended address. An existing category of electors who are not living at their usual UK address are service voters. In paragraph 27 we outline the process for registering service voters. A similar approach could be replicated for registering prisoners.

8. EROs will need to be able to establish whether a prisoner is eligible to register, as it is possible that not all prisoners will meet the eligibility criteria. For example, the National Assembly may choose to enfranchise only those prisoners serving sentences of less than a determined length, or to retain the voting ban for prisoners serving sentences in relation to specified offences. In that case, details of an individual's prison sentence would need to be confirmed in order to determine if they are eligible to vote.

9. To clearly and simply establish eligibility it might be helpful to develop a specific 'application to register form' for prisoners. This could be similar to the application to register as an anonymous elector or a declaration of local connection, the latter of which is used for remand prisoners and includes an attestation requirement.

10. If EROs need confirmation of the length or other details of a sentence, this could be provided through some form of attestation. The level of prison staff who could attest these applications could be prescribed, as it is for certain police ranks in relation to anonymous registration. The prescribed level should be low enough that the registration process is not reliant on too few people but high enough that the attester will be aware of who can and cannot register, and would carry sufficient authority.

11. There is a risk that prisoners won't have access to the information required in order to verify their identity as part of their application to register to vote, such as their national insurance number or any other documentary evidence. Consideration would therefore need to be given to alternative ways for prisoners

to verify their identity so that they can register.

## The method by which prisoners would cast their vote

### In a polling station

12. The setting up of polling stations in prisons would logistically be very difficult and require significant resourcing. For example, making sure that all prisoners were issued with the correct ballot papers for their registered address, and that the completed ballot papers were returned to the correct wards or constituencies ahead of the count would be difficult to deliver in practice.

13. If polling stations were set up in prisons, consideration would also need to be given to how to maintain the integrity of the voting process, ensuring that the voter can cast their vote in secret. In addition, all voter materials and the ballot boxes would need to be kept secure at all times. There are questions around who would run the polling station and how they would be trained.

14. Given the practical challenges highlighted above, we do not recommend that polling stations are set up in prisons. This would therefore mean that prisoners would need to rely on absent voting methods, such as postal voting or voting by proxy.

15. Currently, prisoners on remand are classified as special category electors, and are only able to vote by post or proxy.

### By post

16. There is a relatively short window between the issue of postal ballot packs by Returning Officers and the deadline for returning a completed postal ballot in time for it to be counted. The HM Prison Service – Wales would therefore need to ensure that their current arrangements for processing prisoners' mail would enable prisoners to receive and return their postal ballots within the necessary timeframe.

17. If prisoners are entitled to vote by post, we would expect there to be necessary safeguards in place so that they can complete their postal ballot pack in secret. This may be achieved through including specific wording in the legislation or receiving an assurance from the prison service this will happen.

### By proxy

18. If prisoners are able to vote by proxy they should not be required to have their application attested, as is the case for overseas and service voters. This is because by nature of being in prison the voter has a sufficient reason for not being able to attend their polling station.

## Information provision

19. If some prisoners are in future eligible to vote at elections in Wales, it will be important to ensure they know that they can vote and how to register and cast a vote. The Commission would expect to work with governments and the prison service to explore how an awareness programme for prisoners would be delivered to enable this.

20. Prison officers would need to be trained so they can support prisoners, and signs on voting rights and how to register to vote and vote could be displayed in relevant areas of the prison. Prisoners who are disabled or who have any learning difficulties should be able to receive help to complete forms if they ask for it. We would be happy to explore with the prison service the practical steps they could take to support prisoners to vote and advise on the materials that they could use to raise awareness.

### Access to campaign arguments

21. If prisoners are eligible to vote at elections in Wales they must have access to information about the policies of candidates, parties and other campaigners so they can make an informed decision when they vote. The prison service would need to consider how this would be delivered.

Cross-border issues arising from prisoners from Wales being imprisoned in  
England

22. As residence is one of the main criteria for registration there will need to be careful consideration about how to register people who have previously been resident or registered to vote in Wales but who are serving a prison term in a prison in England, Scotland or Northern Ireland. If prisoners were registered at the prison address, this could have a disproportionate impact on the electorate in the ward in which the prison is located. It would also mean that Welsh prisoners in prisons in England would not be able to vote in Welsh elections.

23. Allowing prisoners to register in respect of a previous or intended address in Wales could help address this issue.

Special considerations for young offenders in custody if the franchise is extended  
to 16 and 17 year olds generally

24. We are aware that the Welsh Government intends to legislate to extend the franchise for National Assembly and local government elections in Wales to include 16 and 17 year olds. This means that the local government register will include 16 and 17 year olds as full electors. Additionally, 15 year olds and some 14 year olds will be entitled to be included on the register as 'attainers'.

25. If the franchise is extended further to include prisoners, information and support would need to be provided to 15, 16 and 17 year-olds in custody

by the prison service about entitlement to register to vote, and to encourage them to apply to register online.

Example of an existing special category of elector – service voters

26. The current process for registering HM Forces as service voters is an example of a system used for registering a specific group of people who are not living at their usual UK address.

27. HM Forces service voters complete a service declaration which states either the address where they are living in the UK, the address where they would have been living if they are serving abroad, or if they do not have either, an address at which they have lived in the UK.

28. The application to register as a service voter is prescribed and differs from the standard registration application form. All applications to register are processed by the ERO who determines if the applicant is entitled to be registered. If they are, information on postal and proxy voting is generally provided to them as they are likely to be unable to vote in person.

29. In the case of service voters, each unit of the services has a designated member of staff who acts as the Unit Registration Officer (URO). Each base commander gives assistance to the URO and other personnel in their unit to promote participation in the electoral process.

30. HM Forces service voters are listed as ‘other electors’ on the register when they no longer have a connection to their qualifying address.

Other countries’ approaches to prisoner voting: Canada

31. Canadians who will be 18 years of age or older on polling day, and who are in a correctional institution or a federal penitentiary in Canada, may vote by special ballot in an election or referendum.

32. In each institution a staff member is appointed liaison officer and facilitates the process of registering and voting.

33. For electoral purposes, the incarcerated elector's place of ordinary residence is not the institution in which he or she is serving a sentence. It is either:

- his or her address before being imprisoned
- the address of a spouse, common-law partner, a relative or dependant of the elector, a relative of his or her spouse or common-law partner or a person with whom the elector would live if not incarcerated;
- the place of his or her arrest; or
- the last court where the elector was convicted and sentenced.

34. To register to vote, the incarcerated elector must fill out an Application for Registration and Special Ballot form, which is returned to the liaison officer, who validates it.

35. During a general election or referendum, eligible prisoners vote in their prison on the tenth day before polling day. A polling station is set up from 9am and remains open until all those who wish to vote have done so, but closes no later than 8pm.

36. The elector is responsible for sending their ballot paper to Elections Canada no later than 6pm on polling day. They can either send it themselves or leave it with the deputy returning officer to forward by special arrangement.

37. The ballot papers of prisoners are counted at the same time as those of other residents temporarily absent from their electoral districts. At the end of polling night, special ballot votes are added to the total results for each district.

38. Further information is available on the Elections Canada website: (<http://www.elections.ca/content.aspx?section=vot&dir=bkg&document=ec90545&lang=e>)

# Agenda Item 4.1

## Equality, Local Government and Communities Committee

7 March 2019 – papers to note cover sheet

Paper no.	Issue	From	Action point
ELGC(5)-08-19 Paper 3	Welsh Government's budget of 2018-19	Equality and Human Rights Commission	Letter from the Equality and Human Rights Commission in relation to the Cumulative Impact Assessment briefing for Committees



John Griffiths AM  
Chair of the Equality, Local  
Government and Communities  
Committee  
National Assembly for Wales

21 February 2019

Dear John

### **Cumulative Impact Assessment briefing for Committees**

The Commission was pleased to provide evidence to the Joint meeting of the Finance, Children and Young People and Equality, Local Government and Communities Committees in November as part of the scrutiny of the Welsh Government's budget of 2018-19

Our evidence centred on the extent to which equality considerations had been built into the budget setting process and we provided advice on our recent work to develop a Cumulative Impact Assessment model of public spending decisions. The model enables Governments to analyse the cumulative impact of their spending decisions on certain groups with protected characteristics in order for them to take decisions to mitigate against unequal outcomes. We worked with Landman Economics on this work and since the evidence session we published our report - [The cumulative impact on living standards of public spending changes](#), which includes evidence on the impact of Welsh Government's public spending decisions.

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Bydd y Comisiwn yn croesawu gohebiaeth yn y Gymraeg a'r Saesneg.

The Commission welcomes correspondence in Welsh or English.

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Pack Page 20

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We were pleased to see the series of recommendations in the Finance Committee's including:

- the Welsh Government should consider the Cumulative Impact Assessment approach recommended by the Equality and Human Rights Commission and;
- that Welsh Government provide an update on the outcome of its review of the new Integrated Assessment approach.

We are keen to further support the Committees in taking forward these recommendations and advise on the scrutiny of future Welsh Government budgets. To this end we are continuing to work on a research project to analyse how effectively the current Welsh Government Integrated Impact Assessment model builds in equality considerations. We believe the outcome of this analysis will be useful for drive improvements on how the Welsh Government considers equality outcomes as part of its decision making on budgets and support scrutiny by the National Assembly.

We are pleased to offer a briefing session to you and your Committee Members and staff on the Cumulative Impact Assessment work and the review of the Integrated Impact Assessment. This would take place on or around 14 March.

If this is something that you would be interested please come back to me and my team will be happy to liaise with the Clerks teams to organise.

Yours sincerely



**Ruth Coombs**

Head of Wales

cc: Llyr Gruffydd AM, Chair of the Finance Committee  
Lynne Neagle AM, Chair of Children, Young People and Education Committee

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Bydd y Comisiwn yn croesawu gohebiaeth yn y Gymraeg a'r Saesneg.

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