

Scottish Courts and Tribunals Service



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By email to:
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29th August 2017

DX: FD 545309
Our Ref:

Your Ref:

Dear Sir/Madam

Invitation to evidence session – Prisoner voting

We thank you for the invitation to the evidence session of the Equalities and Human Rights Committee in relation to prisoner voting, to which I respond on behalf of the Scottish Courts and Tribunals Service (“the SCTS”).

The SCTS do not intend to participate, by way of attendance, at the evidence session however, as discussed, we enclose a written response.

The response is submitted by the SCTS in fulfilment of its function to provide efficient and effective administration to the courts. This response does not include the views of the Judiciary.

The SCTS cannot comment on whether changes should be made to the current blanket ban which prevents prisoners from voting as these are matters of policy. However, I do provide comment on the potential impact on the SCTS should any of the proposed options outlined in the letter from Patrick Harvie, MSP be considered as future legislative provisions.

Current provision

The present position which operates by virtue of section 3 of the Representation of the People Act 1983 has no impact on the SCTS.

Resumption of voting rights at the end of a long term sentence

There may be an impact on the SCTS depending on how this would be applied.

If there was a provision in legislation enabling the resumption of voting rights at the end of a long term sentence, for example allowing those rights to be exercised for a

specified period of time prior to the release date of a prisoner, or for a specified period after imposition of a sentence, this would have no impact on the SCTS.

If a resumption of voting rights could only apply following a court application by the prisoner for the re-instatement of the right to vote then that would have an impact on the SCTS in terms of:

- court time;
- associated staff and accommodation resources, and
- costs involved for any relevant IT changes.

If the provisions allowing court applications were applied retrospectively this could result in a significant number of applications being made on the coming into force of the relevant legislation. This would impact on delays in hearing cases unless adjustments were made to normal court programmes with resultant costs to the SCTS (additional to those noted above).

This position may be exacerbated if an election was either due or one was anticipated.

If legal aid was not to be made available for these applications, it is likely they would be lodged by unrepresented parties. This has the potential to extend the duration of any hearings and lead to increased costs for matters such as transportation of prisoners between prisons and the courts if a hearing is required.

Orders by criminal courts as part of the sentencing process

The SCTS make no comment on the principle of this. If this is an option that the Committee wishes to explore further, then the SCTS would suggest it may be appropriate to seek the views of the judiciary separately from that of the SCTS.

We consider that imposition of an order as part of the sentencing process would involve the sheriff/ judge considering any sentencing guidelines produced; and on the making of such an order to explain the conditions and requirements of the order. There may also be a requirement for the court to record the reason for making or not making an order and a further requirement on the court to intimate any order to relevant persons.

This would have an impact on the SCTS in terms of:

- court time;
- associated staff and accommodation resources, and
- costs involved for any relevant IT changes.

Additionally it may be anticipated that such an order would be appealable as though it were a sentence of the court, with the associated costs to the SCTS of the appeal process.

Loss of voting rights for specific categories of offence

In anticipation that this would operate in a similar way to the current provision and automatically apply, a disqualification from voting by reason of conviction for a specific offence would not impact on the SCTS.

Summary

Without more detailed information on what exactly is proposed for each of the above scenarios it is not possible to fully consider the costs involved but any involvement of the judiciary/courts would require additional court time, staff resources and relevant IT changes.

Should specific proposals be taken forward, the SCTS would welcome the opportunity to be kept informed of any developments, including, where required, contributing towards any further evidence session, financial memorandum or relevant impact assessment.

If you need any further information, please do not hesitate to contact me.

Yours faithfully

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