



Official - Sensitive

Christina McKelvie MSP
Convener
Equalities and Human Rights Committee
The Scottish Parliament
Edinburgh
EH99 1SP

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23 March 2018

Dear *Ms McKelvie*

PRISONER VOTING RIGHTS

Thank you for your letter on the work of the Scottish Parliament's Equalities and Human Rights Committee. I am grateful for the opportunity to respond as the Secretary of State responsible for prisoner voting rights.

It is a feature of United Kingdom law that when someone commits a crime that is sufficiently serious to receive a prison sentence they are considered to have broken their contract with society to such an extent that they should not have the right to vote until they are ready to be back in the community.

This prohibition is set out in the Representation of the People Act 1983 and the principle behind this has been reaffirmed by the House of Commons, most recently in 2011. The Government continues to believe that convicted offenders who are detained in prison should not vote.

In December 2016, the Government gave a formal and public commitment to the Committee of Ministers of the Council of Europe, the body representing the national governments of its members, that we would provide proposals to address the *Hirst* judgment.

The UK Government considered this issue carefully. In November 2017, my predecessor proposed a set of administrative changes to address the points raised in the 2005 *Hirst* judgment, while maintaining the bar on convicted prisoners in custody from voting. I have attached his November oral statement to the House of Commons to this letter. The measures he outlined are:

- A. First, we will make it clear to criminals when they are sentenced that while they are in prison their punishment by imprisonment includes losing the right to vote.
- B. Secondly, we will amend guidance to address an anomaly in the current system, where former offenders who are back in the community on licence (under Home Detention Curfew) can vote, but those who are in the community on Temporary Licence cannot.

What the Government proposed provides both clarity and consistency, and enables us to go forward in a way that respects the strong views expressed in Parliament and among the wider British public, while also respecting our international legal obligations. There will be absolutely no changes to the criteria for temporary release, and no offenders will be granted release in order to enable them to vote. Applicants will still need to pass the existing full risk assessment before being considered for release on temporary licence.

As you are aware, in December 2017 the Council of Europe's Committee of Ministers reached a decision on the UK proposals to address the longstanding *Hirst* judgment. The Committee of Ministers noted with satisfaction the package of administrative measures proposed, in particular the change in policy and guidance in relation to prisoners released on temporary licence and on home detention curfew. The Committee of Ministers also found that in light of the wide margin of appreciation in this area, these measures respond to the European Court's judgments in this group of cases; therefore, strongly encouraged that the UK implement the proposed measures as soon as possible. I am confident that if we are able to implement these measures across the UK before we send an action plan to the Committee of Ministers on 1 September 2018, the *Hirst* case can be closed.

I look forward to reading your report once published.

Yours sincerely
David Gauke

RT HON DAVID GAUKE MP