



The Scottish Parliament
Pàrlamaid na h-Alba

Equalities and Human Rights Committee

Christina McKelvie MSP
Convener

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[Via email only](#)

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Dear Minister of State,

Prisoner Voting in Scotland

The Equalities and Human Rights Committee has been considering the issue of [Prisoner Voting in Scotland](#). In particular, Scotland's response to the 2005 European Court of Human Rights ruling in the Hirst case that, as the ban was a blanket one, it breached Article 3 of Protocol No 1 of the European Convention on Human Rights, which requires states to "hold free elections (...) under conditions which will ensure the free expression of the opinion of the people".

As you know, section 3 of the UK Representation of the People Act 1983 bans all prisoners serving custodial sentences from voting in parliamentary and local elections. The ban applies irrespective of the length of the sentence. Until recently, the rules on the electoral franchise were reserved to Westminster. Section 3 of the Scotland Act 2016 devolved much of the powers on electoral law for local and Scottish Parliamentary elections to the Scottish Parliament (including rules on the franchise). Regulations setting a date for section 3 to come into force were made on 18 May 2017.¹ This means that the Scottish Parliament now has the power to allow prisoners to vote in local elections and elections to the Scottish Parliament.

¹ The Scotland Act 2016 (Commencement No. 6) Regulations 2017

We held our first evidence session on [7 September 2017](#) and a further session on [25 January 2018](#). In the course of our examination, on 2 November 2017, the UK Government announced changes to Prison Service guidance to allow those in the community on temporary licence to vote. Also, the UK Government made clear offenders will be given sufficient clarity that they will not be able to vote if they are serving a custodial sentence.

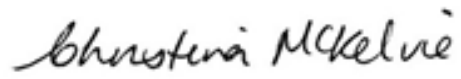
On 7 December, we heard that the Committee of Ministers of the Council of Europe, which supervises the implementation of ECHR judgements, accepted the UK Government's plans "with satisfaction".²

To further assist our deliberations we would find it enormously helpful to understand what aspects you considered in arriving at your action plan. In addition, any information you can provide to us as to why the Committee of Ministers of the Council of Europe accepted your plan, given prisoners serving custodial sentences are still banned from voting in parliamentary and local elections. This would assist our understanding of the current position and how this translates to Scotland.

We would also find it of assistance if you could provide an update on when you last met the Scottish Government to discuss prisoner voting and what these discussions entailed.

We would welcome a response by 28 February, as this would allow us to progress to the next stage of our inquiry.

Yours sincerely,



Christina McKelvie MSP
Convener
Equalities and Human Rights Committee

cc: Joe Fitzpatrick MSP, Minister for Parliamentary Business, The Scottish Government

² BBC, 7 December 2017, <http://www.bbc.co.uk/news/uk-42271100>