



Scottish Parliament

Equalities and Human Rights Committee

Prisoner Voting Evidence Session

7th September 2017

The Scottish Assessors Association welcomes the opportunity to contribute to the Equalities and Human Rights Committee's Evidence Session into Prisoner Voting.

The Scottish Assessors Association (SAA) is a voluntary non-statutory body that represents the 14 lands valuation Assessors appointed in terms of section 27(2) of the Local Government etc. (Scotland) Act 1994. Thirteen Assessors are also appointed Electoral Registration Officers (EROs) for 30 local authorities. The SAA Electoral Registration Committee however represents all 15 EROs appointed in terms of section 8 of the Representation of the People Act 1983 by the 32 local authorities in Scotland. EROs in Scotland are independent statutory officials and as such comment is limited to administrative/registration issues surrounding the matters raised in this consultation.

The Chair, Vice Chair and the previous Chair of the Electoral Registration Committee are also members of the Electoral Management Board for Scotland.

Introduction

The SAA does not offer any view on whether prisoners should be enfranchised or not as this is a matter of political policy and for Parliament to determine. Our submission is restricted to the possible practical issues surrounding the registration of prisoners. The submission also covers some of the issues currently encountered by Electoral Registration Officers in processing registration applications from prisoners held on remand. The document is intended to identify some of the issues and is not a fully developed discussion paper. Should specific proposals be developed and put out to consultation then the SAA would welcome the opportunity to provide comment as part of that process.

Current Legislative Provisions

The disenfranchisement of convicted offenders in Prisons and Young Offenders Institutions is covered by Section 3 of the Representation of the People Act 1983.

The disenfranchisement of convicted offenders detained in secure hospitals is covered by section 3A of the Representation of the People Act 1983.

The position for prisoners held on remand is different. They are eligible to be registered to vote, the process of registering them is dealt with by Section 7A of the Representation of the People Act 1983.

Issues for consideration in enfranchising Prisoners

Residence

- 1.1 The majority of electors are registered at the address at which they are resident. However some electors register by way of declaration to an address at which they were formerly resident, examples of the type of electors registered this way include, homeless citizens, patients resident in psychiatric hospitals and remand prisoners. The names of electors declaring to a former address appear in the Register of Electors under the heading "Other Electors" with no address details shown.
- 1.2 If offenders serving custodial sentences were to be enfranchised then a decision would be needed as to whether they should
 - a) Register at the establishment in which they are detained
 - b) Register by way of declaration of local connection to their previous address
 - c) Register at their home address

In the case of remand prisoners they may register either at the prison or by way of Declaration of Local Connection. They may remain registered at their home address if their absence is for a short enough period to be deemed temporary.
- 1.3 The decision as to residence is a critical one, for example if the prison was deemed to be the address to be used for registration it would allow the possibility of voting in person. Registering all prisoners at the prison address would have a noticeable impact on the number of electors in the local government ward in which the establishment was located. It would also in effect identify the elector as a prisoner.
- 1.4 Alternatively registering all prisoners by Declaration of Local Connection would not readily identify them as prisoners as they would appear in the register alongside other electors such as Overseas Electors, Crown Servants and Armed Forces electors. It would have the practical effect of removing the possibility of voting in person thereby restricting voting to postal or proxy voting. The dispersed nature of previous addresses would mean that the number of electors in any individual local government ward would not be affected to any significant extent.
- 1.5 Declarations of Local Connections, unlike ordinary registrations, only last for twelve months. An ERO is required to issue two renewal reminders in the run up to the expiry date of a declaration. If the applicant fails to renew their declaration in time they are then removed from the Register of Electors and, if appropriate, from the list of Postal and Proxy Voters. Any elector removed from the Register would need to complete a full new declaration and a new postal/proxy application. An ERO with a prison in their area would see an increased workload in issuing and following up declarations on an annual basis. Along with processing any new applications resulting from a failure to renew.
- 1.6 Registering prisoners at their "home" address would raise potential issues particularly for long term prisoners, as the home address could change occupation during the length of their imprisonment and could indeed be demolished. New occupiers may not be happy to have a former resident registered at their address.

- 1.7 The decision as to residence would also potentially impact on which prisoners could register. For example if the franchise was only extended to the Local Government Register in Scotland then the ability of offenders previously resident elsewhere in Great Britain to register would depend on whether they could register at the prison address or not.

Application Process

- 2.1 Since the introduction of Individual Electoral Registration in 2014 the majority of registration applications are made online. The SAA is not in a position to determine if this option would be available to detained offenders, if they could not register online they could do so by way of the paper application form.
- 2.2 All applicants to register to vote are required to supply their National Insurance Number and Date of Birth. Registration applications are matched against government records to verify the identity of the applicant. If the applicant fails to supply their National Insurance number or Date of Birth or does not match against government records then the ERO asks them to provide documentary evidence as set out in Ministerial Guidance. If the applicant is unable to provide the required documentary evidence then their identity must be attested by another registered elector of good standing. Consideration would need to be given as to how the documentary evidence/attestation process would work for convicted applicants who are unlikely to have ready access to the required evidence/attestation. This would be time critical in the run up to an election and would require staffing resources at a time when ERO's services are already busy.
- 2.3 One of the issues encountered in processing the registration of remand prisoners is that the forms are often not correctly completed and that contacting the applicant for more information is not always as quick and easy as for an ordinary elector. The number of remand prisoners registering is currently low. The widening of the franchise to more or all prisoners is likely to result in more contact from the ERO to detained offenders and consideration should be given as to how this could be facilitated quickly in the run up to an election. Consideration should also be given if penal establishments should be required to assist detained offenders in completing the application forms.
- 2.4 As stated at 1.4 if all prisoners were registered by way of a Declaration of Local Connection then to cast their vote they would need to apply for a postal or proxy vote. Similar issues with regard to the ERO seeking more information in the event of an incomplete form would arise for postal and proxy applications.

Linking of Registration to Sentence

- 3.1 It may be that the right to register as an elector is linked to the length of sentence or to the nature of the crime the person is convicted of. In this instance the practical issue for Electoral Registration Officers is how would that information be communicated to them so that they could ensure that only the correct offenders were registered and thus the integrity of the Register of Electors was maintained. An arbitrary length of sentence may still risk judicial challenge from disenfranchised prisoners.

Annual Canvass/Changes in Registration

- 4.1 Electoral Registration Officers are required to conduct an annual canvass of all residential properties in their area. They must send a Household Enquiry Form and follow it up with a visit if no return is made. It would be logical for penal institutions and psychiatric hospitals to be required to make an annual return to the ERO of all eligible prisoners detained in their

establishments. It would be desirable that they would be required to notify the ERO of any changes on a regular basis so that the ERO can ensure the Register is accurate.

- 4.2 The ERO is required to invite any eligible resident at an address who is not on the Register of Electors to register to vote. If they fail to respond to that invitation the ERO must send at least two reminders and arrange for a member of staff to visit the property to encourage the person to register. The need to visit the property would need consideration in the context of penal establishments to ensure that unnecessary visits were not made and that the EROs staff were not put at risk.

Anonymous Registration

- 5.1 Where an elector is deemed to be at risk if their name and address were to be published in the Register of Electors they may apply to be registered anonymously. Any application to register anonymously must be attested either by a senior police officer or a Chief Social worker or be accompanied by defined court orders. Consideration would be needed as to whether detained offenders could register anonymously and if so how they would access the necessary attestation in the absence of court orders.

Appeal Hearings

- 6.1 When EROs have rejected applications from prisoners to register to vote they have been obliged to offer the offender the right to have their appeal heard. The timescales for holding a hearing are prescribed in law and are relatively short. This has posed practical problems and consideration should be given to allowing appeals to be heard securely and quickly in a safe environment within the establishment at which the offender is detained.

Markers

- 7.1 If the enfranchisement of Prisoners extended only to the Local Government Register of Electors in Scotland it would be necessary to identify them in the Full Register with a mark to show the limit of their franchise. Marks are already used in this way to identify Overseas and European Electors who have a limited enfranchisement. This would in effect identify them as prisoners even when registering by way of a Declaration of Local Connection.

Costs

- 8.1 The enfranchisement of detained offenders will result in additional work and thus costs for local EROs.

Summary

- 9.1 There are no fundamental barriers to the registration of detained offenders. However careful consideration needs to be given as to the practical processes required to ensure that an undue administrative burden is not placed on EROs, that the process is readily accessible to detained offenders and that EROs have ready access to information sources that will assist in ensuring that entries in the Register are correct and up to date. The latter point is critical to maintaining the integrity of the Register which is the foundation of the election process.

Pete Wildman

Chair of SAA Electoral Registration Committee.