

John Griffiths AM
Chair
Equality, Local Government and Communities Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

23 July 2019

Dear John,

Voting rights for prisoners

I would like to thank the Committee for your detailed consideration of issues relating to the voting rights of prisoners. I write to respond on behalf of the Assembly Commission to your report, specifically to the recommendations aimed at the Commission.

As you are aware, the Commission consulted the public on this issue in 2018 as part of its *Creating a Parliament for Wales* consultation on potential reforms to the Assembly's electoral and operational arrangements. The consultation responses highlighted legal, ethical and democratic complexities as well as practicalities that required detailed consideration to inform further discussion and debate on this issue. I am grateful to the Committee for responding positively to my invitation to deliberate this issue.

At the heart of any consideration of this matter is the importance of ensuring that our electoral franchise is compatible with the European Convention on Human Rights. During your inquiry you heard detailed evidence from a range of well-informed stakeholders. While not all of your recommendations were supported by all Committee members, your report nevertheless provides a firm basis for further consideration of this issue in relation to both Assembly and local government elections in Wales.

The Commission considered your report on 15 July, in particular your first recommendation:

"We recommend that the Welsh Government and National Assembly for Wales Commission introduce legislation to give all those Welsh prisoners who are



serving custodial sentences of less than four years the right to vote in devolved Welsh elections. Mohammad Asghar and Mark Isherwood do not agree with this recommendation” (**Recommendation 1**).

The Commission considered whether it would be appropriate for it to address the issue of prisoner voting, whether by amendment to the Senedd and Elections (Wales) Bill or in a future piece of Assembly Commission legislation. The Commission concluded that as the Welsh Government retains responsibility for the conduct of elections in Wales, the decision on whether and when legislation should be introduced in respect of prisoner voting rights sits with the Welsh Ministers. This is particularly because of the complexities regarding implementation that were identified by your Committee. The Commission’s view, therefore, is that it is a matter for the Welsh Ministers to respond to **recommendations 1, 2, 7 and 8**.

Although not specifically recommended by the Committee, the Commission considered whether in its view the Senedd and Elections (Wales) Bill, currently in Stage 2 of its legislative scrutiny, could provide a suitable vehicle for progressing any legislative proposals in this regard.

The Commission noted the comments of the Constitutional and Legislative Affairs Committee in its **report** on the general principles of the Senedd and Elections (Wales):

“the publication of the [Equality and Local Government and Communities Committee’s] report does not... equate to Stage 1 scrutiny of a Bill containing specific provisions on prisoner voting that give effect to policy intentions. Extending voting rights to ... prisoners represents a significant change to the electoral franchise. The legislative provisions that would be required to deliver such a change should, in line with good practice on law-making, be included in a Bill on introduction.”

As such, without taking a view on the merits or otherwise of the recommendations made by the Equality, Local Government and Communities Committee, the Commission does not consider that amendments should be introduced to the Senedd and Elections (Wales) Bill to address this issue. To do so would mean that a fundamental change to Assembly voting rights would take place without Stage 1 scrutiny of the detailed proposals.

The Commission agrees with **recommendation 3** in respect of the need for any legislation to be in place at least six months before it is to take effect. This important principle is reflected in the representations I have made to Business Committee in relation to the timetable for the scrutiny of the Senedd and Elections (Wales) Bill. The proposed timetable would allow for the Bill to receive Royal Assent six months prior to the July 2020 canvass for the purposes of the 2021 Assembly election.



Thank you again for your consideration of these complex and important constitutional matters.

Yours sincerely

A handwritten signature in purple ink that reads "Elin Jones".

Elin Jones

Chair, Assembly Commission

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

